

FEDERAL REGISTER

VOLUME 20

1934

NUMBER 215

Washington, Thursday, November 3, 1955

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

PART 472—WOOL

SUBPART—TERMS OF SALE OF WOOL OWNED BY COMMODITY CREDIT CORPORATION (INCLUDING SALES BY COMPETITIVE BIDS)

This document amends and restates in full certain basic terms and conditions of sale, including sales by competitive bids, of wool acquired by Commodity Credit Corporation (referred to in this subpart as "CCC") in connection with its Wool Price Support Programs. The original terms of sale were published in 19 F. R. 6022.

- Sec.
- 472.536 Sales agents.
 - 472.537 Method of sale.
 - 472.538 Submission and acceptance of bids.
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 - 472.543 Weight.
 - 472.544 Passage of title, risk of loss, and liability for storage charges.
 - 472.545 Settlement.
 - 472.546 Limitation on sales.
 - 472.547 Contractual rights.

AUTHORITY: §§ 472.536 to 472.547 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072; 15 U. S. C. 714c.

§ 472.536 *Sales agents.* (a) Sales of wool owned by CCC are made by wool dealers, cooperative marketing associations, and pulleries (such persons are referred to in this subpart as "handlers") who have entered into agreements with CCC to store, handle, and sell wool to which CCC acquires title under its Wool Price Support Programs. Such sales may be made at not less than the minimum prices contained in schedules, as stated in § 472.540 (b), and will be referred to in this subpart as "sales at schedule prices". Sales are also made by CCC on the basis of bids received, and such sales will be referred to in this subpart as "competitive bid sales". Where-

ever in this subpart the terms "sale" and "sales" are used without qualification, those terms include both "competitive bid sales" and "sales at schedule prices". Each handler is authorized to sell at not less than schedule prices, or to show, only the CCC-owned wool which is in his custody. Handlers are required to give all purchasers an equal opportunity to purchase or to make bids on wool owned by CCC. Options shall not be granted, and wool is not to be earmarked for any prospective purchaser.

(b) The sales operations are administered through the CSS Commodity Office located at Boston, Massachusetts. (The Commodity Stabilization Service is referred to in this subpart as "CSS.") Names of the approved handlers authorized to sell at not less than schedule prices for the account of CCC or to show wool belonging to CCC may be obtained from the Boston CSS Commodity Office, 408 Atlantic Avenue, Boston 10, Massachusetts. Handlers are not authorized to modify or waive the terms of sale as set forth in this subpart or any amendments or supplements thereto.

§ 472.537 *Method of sale.* Beginning November 7, 1955, sales of wool owned by CCC will be made by CCC on a competitive bid basis at prices accepted by CCC. Sales made on this basis for domestic use will be limited to a monthly quota of 1/24th of the inventory as of November 1, 1955. During the time that bids are being received by CCC, handlers will also be authorized to sell wool owned by CCC at not less than schedule prices. Such sales will not be charged against the monthly limitation applicable to competitive bid sales.

§ 472.538 *Submission and acceptance of bids.* Persons interested in buying CCC-owned wool on the competitive bid basis shall submit bids to the Boston CSS Commodity Office, Commodity Stabilization Service, United States Department of Agriculture, Boston 10, Massachusetts. Bids shall be submitted on CCC Form BN-66, "Bid on CCC Wool," or in a telegraphic form prescribed by CCC. CCC Form BN-66, which contains the telegraphic form, can be obtained from the handlers who

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Title 32: Parts 400-699 (\$5.75)
Parts 800-1099 (\$5.00)
Part 1100 to end (\$4.50)
Title 43 (Revised, 1954) (\$6.00)

Previously announced: Title 3, 1954 Supp. (\$1.75); Titles 4-5 (\$0.70); Title 6 (\$2.00); Title 7: Parts 1-209 (\$0.60); Parts 210-899 (\$2.50); Part 900 to end (\$2.25); Title 8 (\$0.45); Title 9 (\$0.65); Titles 10-13 (\$0.50); Title 14: Parts 1-399 (\$2.25); Part 400 to end (\$0.65); Title 15 (\$1.25); Title 16 (\$1.25); Title 17 (\$0.55); Title 18 (\$0.50); Title 19 (\$0.40); Title 20 (\$0.75); Title 21 (\$1.75); Titles 22-23 (\$0.75); Title 24 (\$0.75); Title 25 (\$0.50); Title 26 (1954) (\$2.50); Title 26: Parts 1-79 (\$0.35); Parts 80-169 (\$0.50); Parts 170-182 (\$0.50); Parts 183-299 (\$0.30); Part 300 to end and Title 27 (\$1.25); Titles 28-29 (\$1.25); Titles 30-31 (\$1.25); Title 32: Parts 1-399 (\$4.50); Parts 700-799 (\$3.75); Title 32A, Revised December 31, 1954 (\$1.50); Title 33 (\$1.50); Titles 35-37 (\$0.75); Title 38 (\$2.00); Title 39 (\$0.75); Titles 40-42 (\$0.50); Titles 44-45 (\$0.75); Title 46: Parts 1-145 (\$0.40); Part 146 to end (\$1.25); Titles 47-48 (\$1.25); Title 49: Parts 1-70 (\$0.60); Parts 71-90 (\$0.75); Parts 91-164 (\$0.50); Part 165 to end (\$0.60); Title 50 (\$0.55)

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have custody of CCC wool or from the Boston CSS Commodity Office. All bids shall be subject to the terms, conditions, and instructions included in CCC Form BN-66 and to the terms and conditions applicable to competitive bid sales set forth in this subpart. No amendments will be considered after the closing time for receipt of bids unless the amendment is made for the purpose of correcting an error apparent in the original bid or for clarifying an ambiguity or supplying as omission in the bid. CCC has the right to reject any or all bids. In case a bid covers more than one lot, the wool in each lot shall be considered the subject of a separate bid, and may be accepted or rejected as such. In the event equal bids are received on any lot of wool, preference will be given to the first bid received by the Boston CSS Commodity Office.

§ 472.539 *Basis of sale.* All sales are final and unconditional, and the wool is sold "as is, where is." Grease wool may be sold subject to a redetermination of shrinkage by core test if the bid so indicates, in which event the purchaser will take delivery of the wool irrespective of whether the shrinkage is increased or decreased. Although part lots may be sold, sales are not made subject to the right of the purchaser to select specific

bags or bales of wool from a lot or to reject wool from the bags or bales. Wool (original bag or otherwise) is not sold subject to withdrawal of tags, black, burry, or other off wools.

§ 472.540 *Sales prices*—(a) *Competitive bid sales*. Competitive bid sales will be made at the prices accepted by CCC.

(b) *Sales at schedule prices*. The minimum prices applicable to CCC-owned wool sold at schedule prices are issued from time to time by the Boston CSS Commodity Office. The minimum selling price for any lot of wool sold at schedule prices is determined on the basis of the description and shrinkage of the wool as shown in the latest appraisal certificate covering the lot and the minimum selling price prescribed by CCC which is in effect on the date of sale. While this is the minimum price at which wool owned by CCC may be sold by handlers selling at schedule prices, the handlers are required, as agents of CCC, to obtain the highest prices possible for wool under prevailing market conditions.

§ 472.541 *Sales confirmation*—(a) *Competitive bid sales*. A sale on the basis of competitive bids is made subject to a possible sale of the same wool by the handler who has custody thereof at schedule prices, made prior to his receipt of a notice from the Boston CSS Commodity Office of the competitive bid sale. Immediately upon notification from CCC that a bid has been accepted on a lot or portion of a lot of wool in the handler's custody, the handler shall either send confirmations to the bidder and the Boston CSS Commodity Office that the wool is available, or notify the bidder and the Boston CSS Commodity Office that the wool is not available as a result of a previous sale at schedule prices for which he had a confirmation in writing when he received the notification from the Boston CSS Commodity Office. In the event the lot or portion of the lot of wool so bid upon is not available, the competitive bid sale as to that lot or portion shall be of no effect. The date of CCC's acceptance of a bid shall be the date of sale, unless such acceptance is of no effect due to a sale at schedule prices.

(b) *Sales at schedule prices*. All verbal sales at schedule prices shall be confirmed in writing by an authorized representative of the purchaser. Such a sale shall not be binding upon the CCC or the handler in case a bid has been accepted covering the same wool unless the confirmation of the sale at schedule prices is received by the handler prior to his receipt of a notice from the Boston CSS Commodity Office that a competitive bid sale of the same wool has been made. The purchaser's confirmation must show the date of sale and the price, and must clearly describe the wool by type, quantity, and lot number or other definite identification so that no doubt will arise as to which wool is covered by the sale.

§ 472.542 *Point of delivery*. Deliveries of wool pursuant to this subpart are made on an ex-warehouse basis. The purchaser shall take delivery at the warehouse where the wool is stored at the

time of sale and will be billed at the applicable selling price less, in the case of wool stored outside the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, a freight allowance determined by the handler in accordance with procedure prescribed by CCC.

§ 472.543 *Weight*—(a) *General*. CCC wool is sold on the basis of outweights at the warehouse where the wool is stored at the time of sale, except in cases where CCC specifically authorizes the use of a different weight. If, as a result of the purchaser's failure to issue delivery instructions, the outweights are not determined in time to permit remittance of sales proceeds to CCC within 30 days after the date of sale (see § 472.545), a pro forma payment will be required on the basis of inventory weights or estimated weights, with final billing to be made on the basis of actual outweights when such outweights are determined.

(b) *Exceptions*. CCC may authorize the sale of wool on the basis of weights taken on a date near the date of sale instead of on the basis of outweights. Wool sold subject to a redetermination of shrinkage by core test may be billed on the basis of weights taken at the time of coring for completion of the new appraisal certificate.

§ 472.544 *Passage of title, risk of loss, and liability for storage charges*. Title to the wool sold pursuant to this subpart shall pass to the purchaser upon the receipt by the handler who has custody of the wool of the full purchase price. The risk of loss passes to the purchaser upon delivery of the wool, except that if the wool is not delivered within 30 days after date of sale, the risk of loss shall pass to the purchaser upon the expiration of such 30-day period. CCC will pay storage charges only through the storage month current at the time the risk of loss passes to the purchaser, and the purchaser will be liable for storage charges which become due after the risk has passed.

§ 472.545 *Settlement*. The purchaser shall pay the sales price to the handler prior to delivery of the wool in the case of competitive bid sales and prior to or immediately upon delivery of the wool in the case of sales at schedule prices, except that, under the circumstances described hereinafter in this section, he shall pay in accordance with a pro forma invoice. If the handler determines that delivery will not be taken in time to enable him to remit the sales proceeds to CCC within 30 days after the date of sale, he will render a pro forma invoice to the purchaser on the basis of weights specified in § 472.543, requiring payment on a specified date, in time to enable himself to remit the proceeds to CCC within 30 days after the date of sale. After making a payment in accordance with the pro forma invoice, the purchaser shall make final settlement upon delivery of the wool, except that if the handler determines that the wool will not be moved out of the warehouse in time for the purchaser to make final settlement within 3 months after the date of sale, the wool will be weighed at the ex-

pense of the purchaser, and he shall make final settlement within such 3-month period. Irrespective of whether a pro forma invoice has been rendered, the purchaser may take delivery and pay the sales price in time for the handler to remit the sales proceeds to CCC within 30 days after the date of sale; and in such case, the date of delivery—rather than the date specified in the pro forma invoice—shall be the date when payment by the purchaser is due. If the purchaser does not pay the purchase price and take delivery within 30 days after the date of sale, or pay in accordance with the pro forma invoice, all rights of an unpaid seller shall be available against him, including the right to cancel the sale, and he shall be liable for all losses sustained. The handler will receive the same commission for handling a sale based on competitive bids as he receives in the case of sales at schedule prices. (1954 Wool Price Support Program (Shorn Wool) § 472.527, 19 F. R. 3078; 1954 Wool Price Support Program (Pulled Wool) § 472.574, 19 F. R. 3083.)

§ 472.546 *Limitation on sales*. A handler may not purchase either on a competitive bid basis or at schedule prices wool owned by CCC which is in his own custody and may not dispose of such wool to any person or firm in a manner that will result in any reward, financial benefit, profit, or payment to the handler, any affiliated organization, or any officer or employee of the handler or such affiliated organization, other than the fees and payments allowed the handler by CCC under his agreement with CCC, unless specifically authorized by CCC. Handlers may, however, purchase from other handlers wool owned by CCC.

§ 472.547 *Contractual rights*. Nothing in this subpart shall change or affect the contractual rights or obligations under the Wool Handler's Agreements or the Pulled Wool Agreements entered into by and between CCC and the handlers or under instructions issued by CCC in accordance with such agreements.

Issued this 1st day of November 1955.

[SEAL] EARL M. HUGHES,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 55-8925; Filed, Nov. 2, 1955;
8:55 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 722—COTTON

SUBPART—REGULATIONS PERTAINING TO ACREAGE ALLOTMENTS FOR THE 1956 CROP OF UPLAND COTTON

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AUTHORITY: §§ 722.711 to 722.730 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interpret or apply secs. 301, 342-347, 361-368, 373, 374, 388, 52 Stat. 38, as amended; 7 U. S. C. 1301, 1342-1347, 1361-1368, 1373, 1374, 1388.

GENERAL

§ 722.711 *Basis and purpose.* (a) The regulations contained in §§ 722.711 to 722.730 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of State, county, and farm acreage allotments for the 1956 crop of upland cotton and the determination of the acreage planted to cotton on individual farms in 1956. The latest available statistics of the Federal Government are used in making the determinations required to be made in connection with §§ 722.711 to 722.730. Prior to preparing the regulations in §§ 722.711 to 722.730, public notice was given (20 F. R. 6387) in accordance with Section 4 of the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations which were submitted in response to such notice have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

(b) In order that the State and county Agricultural Stabilization and Conservation Committees may establish farm acreage allotments as early as possible prior to the cotton referendum, which under section 343 of the act is required to be held by December 15, 1955, if a national marketing quota is proclaimed for the 1956 crop of upland cotton, it is essential that the regulations in §§ 722.711 to 722.730 be made effective

as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date provisions of the Administrative Procedure Act is impracticable and contrary to the public interest, and such regulations shall be effective upon filing of this document with the Director, Division of the Federal Register.

§ 722.712 *Definitions.* As used in §§ 722.711 to 722.730 and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and neuter genders and the singular shall include the plural number:

(a) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto heretofore or hereafter made.

(b) "Secretary" means the Secretary of Agriculture of the United States, or the officer of the Department of Agriculture acting in his stead pursuant to delegated authority.

(c) "Deputy Administrator" means the Deputy Administrator for Production Adjustment, or Acting Deputy Administrator for Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(d) "Director" means the Director, or Acting Director, of the Cotton Division, Commodity Stabilization Service, United States Department of Agriculture.

(e) "Committees":

(1) "Community committee" means the group of persons elected within a community as the community committee pursuant to the Secretary's regulations governing the selection and functions of the Agricultural Stabilization and Conservation county and community committees (19 F. R. 3637), as amended.

(2) "County committee" means the group of persons elected within a county as the county committee pursuant to the Secretary's regulations governing the selection and functions of the Agricultural Stabilization and Conservation county and community committees (19 F. R. 3637), as amended.

(3) "State committee" means the group of persons designated for a State by the Secretary as the Agricultural Stabilization and Conservation State Committee.

(4) "Review committee" means the group of persons appointed by the Secretary as a review committee pursuant to section 363 of the act.

(f) "Person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State, political subdivision of a State, or any agency thereof, or the Federal Government or any agency thereof. The term "person" shall include two or more persons having a joint or common interest.

(g) "Owner" or "landlord" means a person who owns farm land and rents such land to another person or who operates such land.

(h) "Cash tenant", "standing-rent tenant", or "fixed-rent tenant" means a person who rents land from another for

a fixed amount of cash or a commodity to be paid as rent.

(i) "Share tenant" means a person other than a sharecropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

(j) "Sharecropper" means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of the crops produced thereon or the proceeds thereof.

(k) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(l) "Farm" means all adjacent or nearby farm or range land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm or range land which the county committee determines is operated by the same person as part of the same unit in producing range livestock or with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

(m) "Farm acreage allotment" means a cotton acreage allotment established for a farm under the regulations in this subpart. Farm acreage allotments are initially established on the basis of the data for farms as finally constituted for 1955; where there is a change in the land in a farm for 1956, the farm acreage allotment will be redetermined in accordance with § 722.717 (h).

(n) "Upland cotton" (herein referred to as "cotton") means any cotton other than extra long staple cotton.

(o) "Extra long staple cotton" means the kinds of cotton described in section 347 (a) of the act and in the regulations for establishing acreage allotments for the 1956 crop of extra long staple cotton and for determining acreages planted to extra long staple cotton.

(p) "State and county code number" means the applicable number assigned by the Commodity Stabilization Service to each State and county for the purpose of identification.

(q) "Serial number of the farm" or "farm serial number" means the serial number assigned to a farm by the county committee for purposes of identification.

(r) "Old cotton farm" means a farm having an acreage planted to cotton in any one or more of the years 1953, 1954, and 1955.

(s) "New cotton farm" means a farm on which cotton is to be planted in 1956 but on which no acreage was planted

to cotton in any of the years 1953, 1954, and 1955.

(t) "Normal yield" means the average yield per acre of lint cotton for the farm, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available or there was no actual yield, then the normal yield for the farm shall be appraised by the county committee taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available. The normal yield for a new cotton farm shall be that yield per acre which the county committee determines is normal for the farm as compared with other farms in the locality which are similar with respect to soil and other physical factors affecting the production of cotton.

(u) "Normal production" of any number of acres means the normal yield per acre of lint cotton for the farm multiplied by such number of acres.

(v) "Actual production" of cotton on the farm means the total number of pounds of lint cotton determined to have been produced on the farm in 1956.

(w) "Actual yield" per acre means the number of pounds of lint cotton determined by dividing the actual production of cotton on the farm by the acreage planted to cotton on the farm in 1956.

(x) "Producer" means a person who, as owner or landlord (other than the landlord of a standing-rent tenant, fixed-rent tenant, or cash tenant), cash tenant, standing-rent tenant, fixed-rent tenant, share tenant, or sharecropper on a farm, is entitled to all or a share of the 1956 crop of cotton produced thereon or of the proceeds thereof.

(y) "Acreage planted to cotton":

(1) *State*. The acreages of cotton to be used in establishing State acreage allotments are as follows:

(i) *For 1950*. The measured acreages of cotton for all farms in the State, as determined for purposes of the 1950 cotton marketing quota program, and adjusted according to the provisions of subsections (f) (4) and (5), (g) (3), and (i) of section 344 of the act.

(ii) *For 1951 and 1952*. The official planted acreages of cotton (acreage in cultivation on July 1 of each year plus the estimated acreage planted but abandoned prior to July 1), as determined by the Agricultural Marketing Service (formerly the Bureau of Agricultural Economics) of the United States Department of Agriculture.

(iii) *For 1953*. The measured acreages of cotton for all farms in the State, as determined in accordance with official instructions.

(iv) *For 1954*. The measured acreages of cotton for all farms in the State, as determined for purposes of the 1954 cotton marketing quota program, and adjusted according to the provisions of subsections (g) (3), (i), and (m) (2) of section 344 of the act.

(2) *County*. The acreages of cotton to be used in establishing county acreage allotments are as follows:

(i) *For 1950*. The measured acreages of cotton for all farms in the county, as

determined for purposes of the 1950 cotton marketing quota program, and adjusted according to the provisions of subsections (f) (4) and (5), (g) (3), and (i) of section 344 of the act.

(ii) *For 1951 and 1952*. The official planted acreages of cotton (acreage in cultivation on July 1 of each year plus the estimated acreage planted but abandoned prior to July 1), as determined by the Agricultural Marketing Service (formerly the Bureau of Agricultural Economics) of the United States Department of Agriculture.

(iii) *For 1953*. The measured acreage of cotton for all farms in the county, as determined in accordance with official instructions.

(iv) *For 1954*. The measured acreages of cotton for all farms in the county, as determined for purposes of the 1954 cotton marketing quota program, and adjusted according to the provisions of subsections (g) (3), (i), and (m) (2) of section 344 of the act.

(3) *Farm (1953, 1954, 1955)*. For purposes of establishing farm acreage allotments for the 1956 crop of cotton, the acreage planted to cotton on a farm means the acreage of land planted to cotton for the years 1953, 1954, and 1955, which shall be determined as follows:

(i) *For 1953*. The acreage of cotton measured in accordance with official instructions.

(ii) *For 1954 and 1955*. The acreages of cotton measured for purposes of the 1954 and 1955 cotton marketing quota programs, and adjusted, as provided in subsections (g) (3), (i), and (m) (2) of section 344 of the act.

(4) *Farm (1956)*. For purposes of determining compliance with the farm acreage allotment, the acreage planted to cotton on a farm in 1956 shall be the acreage of land seeded to cotton on the farm in 1956, excluding any acreage in excess of the farm acreage allotment which (i) is destroyed by causes beyond the producer's control prior to the expiration of the period established under item (ii) of this subparagraph for disposing of excess cotton acreage, or (ii) is disposed of not later than 20 days, or such longer period as is approved in writing by the county committee, in accordance with § 722.726, after the original notice of the measured cotton acreage is mailed to the farm operator.

(5) *Exclusion of acreages planted to extra long staple cotton*. Acreage devoted to the production of American-Egyptian, Sea Island, and Sealand cotton during the period of years 1950 to 1955, inclusive, shall not be included in the acreage planted to cotton, as determined under subparagraphs (1), (2), and (3) of this paragraph (y), for the purposes of determining acreage allotments for the 1956 crop of cotton.

(2) "Abnormal weather conditions" means weather conditions (including conditions directly resulting therefrom) adversely affecting the planting of cotton, which conditions must have been of sufficient duration and intensity to prevent the seeding of land to cotton and must have continued until the end of the planting season for the area. In appor-

tioning the national acreage allotment to States in accordance with § 722.715, adjustments for abnormal weather conditions are made in the acreages planted to cotton in the States on the basis of recommendations of the State committees and official statistics and studies of the Department of Agriculture. In apportioning the State acreage allotment among counties in accordance with § 722.716 (b), adjustments for abnormal weather conditions are made in the acreages planted to cotton in counties on the basis of recommendations of the State committee and official statistics and studies of the Department of Agriculture. Any such adjustment in the acreage planted to cotton in a State or county is the amount established by reference to available information and data as the net reduction of planted acreage in the State or county attributable solely to abnormal weather conditions. Such adjustments for abnormal weather conditions take into consideration failure to seed cotton because of abnormal weather conditions.

(aa) "Cropland" means farm land which in 1955 was tilled or was in regular crop-rotation, excluding (1) bearing orchards and vineyards (except the acreage of cropland therein), (2) plowable noncrop open pasture, and (3) any land which constitutes or will constitute, if tillage is continued, a wind erosion hazard to the community.

§ 722.713 *Issuance of forms and instructions*. The Director shall cause to be prepared such forms and instructions with respect to internal management as are necessary for carrying out these regulations. The forms shall be issued by the Director with the approval of the Deputy Administrator, and the instructions shall be issued by the Deputy Administrator. Copies of such forms and instructions shall be furnished free to persons needing them upon request made to the office of the State or county committee or to the Director.

§ 722.714 *Extent of calculations and rule of fractions*. The acreages planted to cotton on farms and farm acreage allotments shall be computed to three places beyond the decimal point and rounded to tenths of acres. Fractions of fifty-one thousandths of an acre or more shall be rounded upward, and fractions of less than fifty-one thousandths of an acre shall be dropped. For example, 10.051 would be 10.1 and 10.050 would be 10.0.

STATE AND COUNTY ACREAGE ALLOTMENTS

§ 722.715 *Apportionment of national acreage allotment among States*. The national acreage allotment proclaimed for the 1956 crop of cotton, less the acreage required pursuant to section 344 (k) of the act to provide any State an allotment not less than the smaller of 4,000 acres or the highest acreage planted to cotton in any of the years 1953, 1954, and 1955, is apportioned among the other States on the basis of the average acreage planted to cotton in each such State for the years 1950, 1951, 1952, 1953, and 1954, with adjustments in such acreages for abnormal

weather conditions. The acreage allotted to a State pursuant to the provisions of this section is referred to herein as the "State acreage allotment". The State acreage allotment for each State for the 1956 crop of cotton is as follows:

State:	State acreage allotments
Alabama	1,025,141
Arizona	343,640
Arkansas	1,424,511
California	782,405
Florida	36,974
Georgia	903,221
Illinois	13,110
Kansas	129
Kentucky	7,799
Louisiana	610,891
Maryland	125
Mississippi	1,646,562
Missouri	378,055
Nevada	12,324
New Mexico	179,378
North Carolina	483,932
Oklahoma	845,616
South Carolina	726,193
Tennessee	563,491
Texas	7,410,893
Virginia	17,114
United States total	17,391,304

¹ Minimum State acreage allotments determined in accordance with section 344 (k) of the Agricultural Adjustment Act of 1938, as amended.

§ 722.716 Apportionment of State acreage allotment among counties—(a) Establishment of State acreage reserve. The State committee shall determine the percentage of the State acreage allotment which is needed for the purposes of subparagraphs (1) through (5) of paragraph (c) of this section and shall set aside a total State acreage reserve of not more than 10 percent of the State acreage allotment (15 percent in the case of Oklahoma), and not less than 3 percent of the State acreage allotment unless, on the basis of the needs of the State, the State committee recommends a smaller acreage reserve than 3 percent of the State acreage allotment and the Administrator of the Commodity Stabilization Service approves such recommendation.

(b) **Computed county acreage allotments.** The State acreage allotment for the 1956 crop of cotton, less the State acreage reserve established pursuant to paragraph (a) of this section, shall be apportioned to counties (parishes in Louisiana) on the basis of the average acreage planted to cotton in each county in 1950, 1951, 1952, 1953, and 1954 (herein referred to as the "base years"), with adjustments for abnormal weather conditions during such years. The acreage allotted to a county (or parish) pursuant to the provisions of this paragraph is herein referred to as the "computed county acreage allotment."

(c) **Use of State acreage reserve.** The State acreage reserve established under paragraph (a) of this section shall be used by the State committee for any one or more of the purposes set forth in subparagraphs (1) through (5) of this paragraph.

(1) **To adjust computed county acreage allotments for trends in the acreage of cotton.** A part or all of the State

acreage reserve may be used by the State committee, as determined to be necessary, to adjust the computed county acreage allotments for trends in the acreage planted to cotton in the counties during recent years (the period of years may include the year 1955 but shall not include the year 1949). The State committee may determine such adjustments by use of a formula which shall be applied uniformly to each county in the State.

(2) **To adjust computed county acreage allotments for counties adversely affected by abnormal conditions affecting plantings of cotton.** A part or all of the State acreage reserve may be used by the State committee, as determined to be necessary, to adjust the computed county acreage allotments for abnormal conditions adversely affecting plantings in the counties during the base years. The State committee shall examine the acreage planted to cotton in the county in each of the base years to determine whether the acreage planted may have been adversely affected by abnormal conditions. In determining whether an adjustment should be made for abnormal conditions adversely affecting plantings in a county, the State committee shall take into consideration the following factors: (i) Abnormal weather conditions, such as floods and droughts during the planting season which caused plantings during such season to be abnormally low in comparison with normal; (ii) conditions in counties in which a number of farms are being returned to cotton production or are increasing the acreage in cotton after having been out of production or having been on a reduced level of cotton production because such farms were used to a larger extent than normal in connection with air bases, defense plants and other wartime activities; (iii) abnormal reduction in planted cotton acreages because of an unusual movement of labor from farms in the area or county to war industries or into the armed forces and the return of such labor as compared with such movements in other counties; and (iv) any other abnormal conditions which adversely affected plantings in the county to a greater extent than in other counties. In determining any adjustment under item (i) of this subparagraph for abnormal weather conditions the State committee shall take into consideration any adjustment made for abnormal weather conditions pursuant to paragraph (b) of this section.

(3) **To make adjustments in acreage allotments for small farms.** The State committee shall determine the acreage, if any, which is required from the State acreage reserve to supplement that part of the county acreage reserves established as provided for in subparagraphs (1) and (2) of § 722.717 (e) to adjust indicated farm acreage allotments for old cotton farms established at 15 acres or less under paragraph (c) or (d) of § 722.717. The State committee shall determine the acreage, if any, to be made available to a county for the purposes of this subparagraph and such acreage shall be used by the county committee only for adjustments in small farm allotments.

(4) **To establish 1956 acreage allotments for new cotton farms.** Where the State committee determines that the needs for acreage to establish acreage allotments for new cotton farms are generally uniform in counties throughout the State, the State committee shall determine whether all the acreage required to establish acreage allotments for new cotton farms shall be provided from the State acreage reserve or the county acreage reserve, or from both such reserves. In determining the source of acreage for new cotton farms the State committee shall take into consideration the acreage requirements determined for such farms from the county surveys, if available, as provided for in § 722.717 (e) (3). Where it is determined by the State committee that the entire county acreage reserve for any county is needed for making adjustments pursuant to subparagraphs (1) and (2) of § 722.717 (e), the State committee shall consider establishing an acreage from the State acreage reserve to supplement the acreage, if any, set aside by the county committee from the county acreage reserve for establishing acreage allotments for new cotton farms. In determining the estimated acreage to be set aside for establishing acreage allotments for new cotton farms on the basis of the factors set forth in § 722.717 (e) (3), the State committee shall take into consideration the experience of State and county committees in establishing acreage allotments for new cotton farms under previous acreage allotment programs and any other available information. The acreage made available to any county under this subparagraph shall be used by the county committee only for new cotton farms.

(5) **To correct inequities in farm allotments and to prevent hardship.** The State committee shall determine the acreage required from the State acreage reserve to supplement that part of the county acreage reserve established, as provided for in § 722.717 (e) (4), for making adjustments in farm acreage allotments to correct inequities and to prevent hardship.

(d) **Availability of data for inspection.** The following shall be on file and shall be available in the office of the State committee for examination by any interested cotton producer: (1) The amount of the State acreage reserve; (2) the formula, if any, and data developed and used under subparagraphs (1) and (2) of paragraphs (c) of this section; and (3) the total acreage set aside from the State acreage reserve for the purposes set forth in subparagraphs (3), (4), and (5) of paragraph (c) of this section.

(e) **County acreage allotment.** The county acreage allotment shall be the sum of (1) the computed county acreage allotment determined under paragraph (b) of this section, and (2) the acreages from the State acreage reserve which are added to the computed county acreage allotment under subparagraphs (1) and (2) of paragraph (c) of this section. This paragraph will be amended at a later date to include the county acreage allotment established for each county.

(f) **Administrative areas.** If the county committee with the approval of

the State committee, or if the State committee, determines with respect to a county in which farm acreage allotments are to be established under § 722.717 (c) that, because of different conditions pertaining to the production of cotton in separate areas of the county, including differences in types, kinds, and productivity of the soil, different areas of the county should be treated separately in order to prevent discrimination, each such area shall be designated as an administrative area and, insofar as practicable, each such area shall be treated as a county in determining the acreage allotment for the area and in establishing farm acreage allotments.

(g) *Apportionment of excess released acreage to counties.* The acreage allotment surrendered to the State committee pursuant to § 722.717 (j) shall be apportioned by the State committee to counties on the basis of trends in acreage, abnormal conditions adversely affecting plantings, or for small or new farms or to correct inequities in farm allotments and to prevent hardship.

ESTABLISHMENT OF FARM ACREAGE ALLOTMENTS

§ 722.717 *Apportionment of county acreage allotment.*—(a) *Determination of method to be used in apportioning county acreage allotment among farms.* Section 344 (f) (2) of the act provides that the county acreage allotment, less the county acreage reserve and the acreage required to establish minimum farm allotments under section 344 (f) (1) of the act, shall be allotted to farms by multiplying the adjusted cropland for each old cotton farm by a uniform county (or administrative area) cropland factor (this method of establishing allotments will be referred to in this section as the "cropland basis"). Section 344 (f) (6) of the act provides that if the county committee so recommends and the Secretary determines that such action will result in a more equitable distribution of the county allotment among farms in the county than would be the case if the cropland basis were used, the county acreage allotment, less the county acreage reserve, shall be apportioned to old cotton farms on the basis of the acreage planted to cotton on the farm during the preceding three years, adjusted as may be necessary for abnormal conditions affecting plantings (this method will be referred to in this section as the "historical basis"). The county committee shall study these two methods of apportioning the county acreage allotment among farms and determine which method should be used in order to establish equitable allotments for farms in the county. If the county committee determines that farm acreage allotments should be determined on the historical basis, its recommendation to that effect should be forwarded to the State committee for transmittal to the Deputy Administrator. When § 722.716 (e) is amended to include the county acreage allotment established for each county, the Secretary will designate the basis on which farm acreage allotments are to be established in the county.

(b) *Determination of county acreage reserve.* The county committee shall establish a county acreage reserve of not in excess of 15 percent of the county acreage allotment which may be used to adjust indicated farm acreage allotments for old cotton farms determined under paragraph (c) or (d) of this section and to establish acreage allotments for new cotton farms under paragraph (e) (3) of this section. The county acreage reserve shall be not less than five percent of the county acreage allotment unless the county committee recommends a smaller acreage reserve and the State committee gives its approval. Any approval of a smaller acreage reserve shall be based upon a showing that such acreage is adequate, on the basis of the factors set forth in paragraph (e) of this section, to make necessary adjustments in indicated allotments for old cotton farms and to establish allotments for new cotton farms. The county acreage reserve approved by the State committee shall be not less than three percent of the county acreage allotment, except that the Deputy Administrator may approve a smaller reserve for a county if he finds that three percent of the county acreage allotment would provide more acreage for adjustments and establishing new farm allotments than is needed in the county.

(c) *Indicated acreage allotments for old cotton farms in counties where farm acreage allotments are determined on the cropland basis.* If farm acreage allotments are to be determined in the county on the cropland basis, the county acreage allotment, less the acreage reserved pursuant to paragraph (b) of this section, shall be used to determine indicated allotments for old cotton farms as follows:

(1) *Indicated minimum acreage allotments for old cotton farms with highest cotton acreage less than five acres.* The indicated minimum acreage allotment for each old cotton farm on which the highest acreage planted to cotton in any of the years 1953, 1954, and 1955 was less than five acres, shall be equal to such highest acreage.

(2) *Pro rata reduction of indicated acreage allotments for old cotton farms.* If the sum of (i) the indicated acreage allotments determined under subparagraph (1) of this paragraph (c) and (ii) the acreage determined by multiplying the number of old cotton farms with five acres or more planted to cotton in any of the years 1953, 1954, and 1955 by five, exceeds the county acreage allotment (less the acreage reserved pursuant to paragraph (b) of this section), an indicated acreage allotment of five acres shall be established for each old cotton farm having five acres or more planted to cotton in any of the years 1953, 1954, and 1955. Where indicated acreage allotments of five acres are established under this subparagraph, each indicated acreage allotment determined under this subparagraph and under subparagraph (1) for each old cotton farm shall be reduced pro rata so that the sum of the indicated acreage allotments for all old cotton farms does not exceed the county acreage allotment (less the acreage re-

served pursuant to paragraph (b) of this section).

(3) *Indicated acreage allotments for old cotton farms with highest cotton acreage of five acres or more in counties where subparagraph (2) of this paragraph is not applicable.*—(i) *Determination of adjusted cropland.* If subparagraph (2) of this paragraph is not applicable in the county, the county committee shall determine an adjusted cropland acreage for each old cotton farm on which the highest acreage planted to cotton in any of the years 1953, 1954, and 1955 was five acres or more, by deducting from the cropland on the farm the sum of the following acreages:

(a) The 1955 acreage of sugarcane for sugar or for syrup and sugar beets for sugar;

(b) The 1955 acreage of tobacco for market (or the 1955 farm acreage allotment, if any, for the applicable type of tobacco if the 1955 acreage has not been determined);

(c) The 1955 acreage of peanuts picked and threshed, as adjusted by the county committee for abnormal conditions affecting such acreage;

(d) The 1955 wheat acreage for market (including the acreage of wheat for feeding to livestock for market). In States in the commercial wheat-producing area for 1956, if the 1955 wheat acreage on the farm was reduced substantially below the 1955 farm wheat acreage allotment because of adverse weather conditions, the acreage to be deducted shall be the 1956 wheat allotment for the farm (less the acreage determined by the county committee to be used on the farm for home use other than for feeding to livestock for market). In the counties designated in item (f) of this subdivision (i) the deduction for wheat acreage shall be limited to the acreage by which the deduction which otherwise would be made under this item (d) exceeds the acreage deducted under item (f) of this subdivision (i);

(e) The acreage planted to rice in 1955 for market (including the acreage of rice for feeding to livestock for market), plus the acreage of other riceland on the farm for which water is available and which is not used for the production of cotton under the rotation system for the farm; and

(f) In Cochise, Gila, Graham, Greenlee, Maricopa, Mohave, Pima, Pinal, Santa Cruz, Yavapai and Yuma Counties, Arizona; and in Butte, Fresno, Glenn, Imperial, Kern, Kings, Los Angeles, Madera, Merced, Riverside, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Stanislaus, Tehama, Tulare and Yuba Counties, California; and in Clark and Nye Counties, Nevada; and in Bernalillo, Chaves, De Baca, Dona Ana, Eddy, Grant, Guadalupe, Hidalgo, Luna, Otero, Sierra, Socorro and Valencia Counties, New Mexico; and in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, and Ward Counties, Texas, the acreage of cropland in excess of that acreage for which irrigation water is normally available and adequate from available facilities for the production of irrigated crops

during the cotton-producing season (seeding to maturity).

(ii) *Determination of county cropland factors.* The first county cropland factor shall be computed by dividing (a) the remainder of the county acreage allotment (less the acreage reserved pursuant to paragraph (b) of this section) after indicated allotments have been made under subparagraph (1) of this paragraph, by (b) the total of the adjusted cropland acreages determined for old cotton farms in the county under subdivision (i) of this subparagraph. Second and additional county cropland factors shall be determined, if necessary, by dividing (1) the available county acreage allotment remaining after maximum and minimum indicated farm acreage allotments, as defined in subdivision (iii) of this subparagraph, have been determined for such old cotton farms by (2) the total of the adjusted cropland acreages determined for old cotton farms in the county under subdivision (i) of this subparagraph, which under the preceding factor were not affected by either the maximum or minimum allotment provisions. The last county (or administrative area) cropland factor computed and applied shall be referred to herein as the "final county cropland factor."

(iii) *Indicated farm acreage allotment.* An indicated acreage allotment shall be computed for each old cotton farm under this subparagraph (3) by multiplying the adjusted cropland for each such farm by the applicable county cropland factor except that (a) the maximum indicated acreage allotment for any such farm shall not exceed the highest acreage planted to cotton on the farm in any of the years 1953, 1954, and 1955, and (b) the minimum indicated acreage allotment for any such farm shall not be less than five acres.

(d) *Indicated acreage allotments for old cotton farms in counties where farm acreage allotments are determined on the historical basis pursuant to section 344 (f) (6) of the act.* In counties where the county committee recommends that the county acreage allotment, less the acreage reserved pursuant to paragraph (b) of this section, be apportioned among farms for the year 1956 on the historical basis and the Deputy Administrator approves such recommendation, indicated allotments for old cotton farms shall be determined in accordance with subparagraph (1) or (2) of this paragraph. For the purposes of this paragraph, the term "allotment base" means the average of the acreages planted to cotton on the farm during each of the three years 1953, 1954, and 1955 (sum of the acreages divided by three), with such adjustment in the acreage for any year as may be necessary for abnormal conditions affecting plantings. Adjustments for abnormal conditions affecting plantings will be made by the county committee on the basis of data and information available in the county office records or furnished by producers on the farm.

(1) *Indicated allotments for old cotton farms in counties where minimum farm acreage allotments are not established.* If the county committee deter-

mines, pursuant to section 344 (f) (6) of the act, that minimum farm acreage allotments shall not be determined in accordance with section 344 (f) (1) of the act, an indicated acreage allotment for each old cotton farm in the county shall be determined by multiplying the allotment base for the farm by a factor determined by dividing the total of all such allotment bases into the county acreage allotment (less the acreage reserved pursuant to paragraph (b) of this section): *Provided*, That, if the county committee so elects, any such indicated farm acreage allotment shall not exceed an acreage equal to 50 percent of the cropland on the farm, and any part of the county acreage allotment not apportioned by reason of the application of such 50 percent limitation shall be added to the county acreage reserve established under paragraph (b) of this section and shall be available for the purposes specified in paragraph (c) of this section.

(2) *Indicated allotments for old cotton farms in counties where minimum farm acreage allotments are established.* If the county committee determines, pursuant to section 344 (f) (6) of the act, that minimum farm acreage allotments shall be determined in accordance with section 344 (f) (1) of the act, indicated farm acreage allotments shall be determined as provided in subdivisions (i), (ii), and (iii) of this subparagraph (2), but subject to the provisions of subdivision (iv) of this subparagraph if the county committee so elects.

(i) *Indicated minimum acreage allotments for old cotton farms with highest acreage planted to cotton less than five acres.* The indicated minimum acreage allotment for each old cotton farm on which the highest acreage planted to cotton in any of the years 1953, 1954, and 1955 was less than five acres, shall be equal to such highest acreage.

(ii) *Pro rata reduction of indicated acreage allotments for old cotton farms.* If the sum of (a) the indicated acreage allotments determined under subdivision (i) of this subparagraph and (b) the acreage determined by multiplying the number of old cotton farms with five acres or more planted to cotton in any of the years 1953, 1954, and 1955 by five, exceeds the county acreage allotment (less the acreage reserved pursuant to paragraph (b) of this section), an indicated acreage allotment of five acres shall be established for each old cotton farm having five acres or more planted to cotton in any of the years 1953, 1954, and 1955. Where indicated acreage allotments of five acres are established under this subdivision (ii), each indicated acreage allotment determined under this subdivision (ii) and under subdivision (i) of this subparagraph for each old cotton farm shall be reduced pro rata so that the sum of the indicated acreage allotments for all old cotton farms does not exceed the county acreage allotment (less the acreage reserved pursuant to paragraph (b) of this section).

(iii) *Indicated acreage allotments for old cotton farms with highest acreage planted to cotton for five acres or more.* In counties where subdivision (ii) of this subparagraph is not applicable, the in-

dicated acreage allotments for old cotton farms with five acres or more planted to cotton in any of the years 1953, 1954, and 1955 shall be determined by multiplying the allotment base for the farm by a factor determined by dividing the total of the allotment bases for all such farms into the county acreage allotment, less the acreage reserved pursuant to paragraph (b) of this section and the sum of the indicated acreage allotments determined under subdivision (i) of this subparagraph: *Provided*, That, if the indicated acreage allotment thus determined for any farm is less than five acres, it shall be five acres. Second and additional factors shall be determined, if necessary, by dividing (a) the available county acreage allotment after minimum indicated farm acreage allotments have been determined for such old farms by (b) the sum of the allotment bases for farms which under the preceding factor were not affected by the minimum allotment provision. The last county history factor computed and applied shall be referred to herein as the "final county history factor."

(iv) *Limitation of farm acreage allotments to 50 percent of cropland.* If the county committee so elects, the indicated farm acreage allotment determined for each farm in accordance with subdivisions (i), (ii), and (iii) of this subparagraph shall not exceed an acreage equal to 50 percent of the cropland on the farm, and any part of the county acreage allotment not apportioned by reason of the application of such 50 percent limitation shall be added to the county acreage reserve established under paragraph (b) of this section and shall be available for the purposes specified in paragraph (c) of this section.

(e) *Use of county acreage reserve.* The county acreage reserve shall be used by the county committee as follows:

(1) *Adjustments in indicated farm acreage allotments of 15 acres or less.* Not less than 20 percent of the county acreage reserve shall, to the extent required, be used by the county committee to adjust indicated farm acreage allotments determined under paragraph (c) or (d) of this section to be 15 acres or less, excluding minimum indicated farm acreage allotments established under section 344 (f) (1) (B) of the act. Such adjustments shall be made so as to establish acreage allotments which are fair and reasonable in relation to the acreage allotments established for similar farms in the community, taking into consideration for the farm the acreages planted to cotton in 1953, 1954, and 1955; the land, labor, and equipment available for the production of cotton; crop-rotation practices; the soil and other physical facilities affecting the production of cotton; and abnormal conditions of production. The county committee shall not make adjustments under this subparagraph so as to cause an acreage allotment to be established for any such farm (i) in excess of the acreage which could be planted to cotton on the farm in 1956 consistent with sound crop-rotation practices followed in the community, (ii) in excess of the acreage which can be farmed with the labor and equipment currently or normally avail-

able on the farm, or (iii) which would cause cotton to be planted on land unsuited for the production of cotton.

(2) *Adjustments in indicated acreage allotments for other farms.* The remainder of the acreage in the county acreage reserve, after meeting or determining the requirements under subparagraphs (1), (3) and (4) of this paragraph, shall be used by the county committee to adjust indicated farm acreage allotments which are more than 15 acres and minimum indicated farm acreage allotments established under section 344 (f) (1) (B) of the act. Such adjustments shall be made so as to establish acreage allotments which are fair and reasonable in relation to the acreage allotments established for similar farms in the community, taking into consideration for the farm the land, labor, and equipment available for the production of cotton; crop-rotation practices; the soil and other physical facilities affecting the production of cotton; and abnormal conditions of production. In the absence of specific data relating to the labor and equipment available for the production of cotton and to the crop-rotation practices followed on a farm, the county committee may consider the acreage planted to cotton on the farm in 1953, 1954, or 1955 as reflecting such factors and use such acreage as the basis for adjusting the indicated farm acreage allotment under this subparagraph. The county committee shall not make adjustments under this subparagraph so as to cause an acreage allotment to be established for any such farm (i) in excess of the acreage of cotton which could be planted on the farm in 1956 consistent with sound crop-rotation practices followed in the community, (ii) in excess of the acreage which can be farmed with the labor and equipment currently or normally available on the farm, or (iii) which would cause cotton to be planted on land unsuited for the production of cotton.

(3) *Acreage allotments for new cotton farms.*—(i) *Determination of acreage needed for establishing acreage allotments for new cotton farms.* The county committee, with the assistance of the community committees, shall estimate from county office records and other available sources of information the number of new cotton farms in the county. In counties where farm acreage allotments are established on the cropland basis, an estimate shall be made of the adjusted cropland acreage for new cotton farms; and in counties where farm allotments are established on the historical basis, an estimate shall be made of the cropland on new cotton farms. Such estimates shall be used by the State and county committees as a basis for determining the acreage that will be required for establishing acreage allotments for new cotton farms. In determining the acreage from the county acreage reserve which is to be used for establishing acreage allotments for new cotton farms, the county committee shall take into consideration the acreage, if any, to be made available from the State acreage reserve pursuant to subparagraph (4) of § 722.716 (c) for establishing acreage allotments for new cotton farms. The total acreage reserved

for establishing allotments for new cotton farms in the county, including any acreage allocated to the county for new cotton farms from the State acreage reserve, shall not exceed 75 percent of the total of the farm acreage allotments which the county committee estimates will be determined for the same number of old cotton farms in the county which are similar except for the acreages planted to cotton during the years 1953, 1954, and 1955.

(ii) *Eligibility of a new cotton farm for a cotton acreage allotment.* A cotton acreage allotment for a new cotton farm may be established by the county committee if each of the following conditions is met:

(a) An application for a cotton acreage allotment is filed by the farm operator with the county committee by the closing date established by the State committee. In no event is the closing date to be earlier than February 15, 1956.

(b) The farm operator is largely dependent on income from the farm for his livelihood.

(c) The farm is the only farm in the county which is owned or operated by the farm operator or farm owner for which a cotton acreage allotment is established for 1956.

(iii) *Establishment of acreage allotments for new cotton farms.* If the applicant's farm is eligible for a cotton acreage allotment, such allotment shall be established by the county committee on the basis of land, labor, and equipment available for the production of cotton; crop-rotation practices; and the soil and other physical facilities affecting the production of cotton. The acreage allotment so determined for any such farm shall not exceed the smallest of

(a) the acreage allotment established for old cotton farms in the county which are similar with respect to the foregoing factors, (b) the acreage allotment requested by the applicant, and (c) the indicated allotments established pursuant to paragraph (c) or (d) of this section for old cotton farms in the county which are similar except for the acreages planted to cotton during the years 1953, 1954, and 1955. The sum of the acreage allotments determined by the county committee for new cotton farms shall not exceed the acreage reserves available for such farms in the county under this subparagraph. The acreage allotments for new cotton farms shall be subject to review and approval by the State committee, as provided in § 722.729.

(4) *Adjustments in farm acreage allotments to correct inequities and to prevent hardship.* The county committee shall determine the acreage required from the county reserve to supplement any acreage allocated to the county from the State acreage reserve to correct inequities in farm allotments and to prevent hardship. Such reserve shall be used by the county committee where it determines that the farm acreage allotment established under other provisions of this section is inequitable or that such allotment would work undue hardship on the producers on the farm. Such reserve may also be used for establishing and adjusting farm acreage allotments

as provided in paragraph (h) of this section.

(f) *Use of acreage allocated to county from State acreage reserve for adjusting allotments for small farms.* The acreage allocated to a county from the State acreage reserve for small farms shall be used by the county committee to adjust indicated farm acreage allotments of 15 acres and less for old cotton farms on the basis of the factors set forth in paragraph (e) (1) and (2) of this section for adjusting small farm allotments.

(g) *Allocation of reserve acreage by use of mathematical formula or rule.* Any mathematical formula or rule adopted by the county committee for use in calculating the amount of acreage to be allocated to an individual farm from the acreage reserves provided for in paragraphs (e) and (f) of this section shall be subject to the approval of the State committee.

(h) *Allotments for late and reconstituted farms and correction of errors.* The acreage reserve provided for in paragraph (e) (4) of this section shall be used by the county committee for the purposes specified therein and also (i) for establishing allotments for old cotton farms for which allotments were not established at the time allotments were originally established for old cotton farms in the county because of oversight on the part of the county committee or because the county committee had no information or data with respect to acreage planted to cotton on the farm in 1953, 1954, and 1955, (ii) for correcting errors in farm acreage allotments, and (iii) for use in establishing acreage allotments for farms which are divided or combined for 1956. Where reconstitutions of farms are made for 1956 after farm acreage allotments for 1956 are established prior to the referendum, the cotton acreage histories and the acreage allotments for all such reconstituted farms shall be established as provided in subparagraphs (1) and (2) of this paragraph.

(1) If land which was constituted as a single farm for the year 1955 is divided into two or more tracts for 1956:

(i) The acreages planted to cotton on the farm in 1953, 1954, and 1955 (as defined in § 722.712 (y) and as shown in Col. (2), Cotton Table 2 of the county committee's farm cotton acreage record) shall be divided among the tracts in proportion to the acreage of cropland on each tract, except that upon agreement by the owners and operators and approval by the county committee the acreages normally considered as riceland, wheatland and sugarcane land may be excluded from the cropland on each tract in apportioning the cotton acreage history among the tracts: *Provided*, That, if two or more tracts of land were combined for 1954 or for 1955 to form the single farm and the single farm is divided for 1956, the cotton acreage history for any year in the farm base period prior to the combination which was contributed by each tract to the history for the single farm will be restored to such tract; and if any such tract is divided into two or more parts in connection with a reconstitution for 1956 the cotton acreage history for such tract for

any year in the farm base period prior to the combination shall be divided among such parts in proportion to the acreage of cropland in each such part, except that, upon agreement by the owners and operators and approval by the county committee, the acreages normally considered as riceland, wheatland and sugarcane land may be excluded from the cropland in apportioning the cotton acreage history for the tract among the parts.

(ii) In counties where farm acreage allotments are determined on the historical basis, if the acreage planted to cotton in 1953, 1954, or 1955 is adjusted for abnormal conditions affecting plantings, as provided in § 722.717 (d), such adjusted acreage shall be divided among the tracts as follows:

(a) For any of the years 1953, 1954, and 1955 when the farm being divided was operated as a single farm, the cropland ratio determined under subdivision (i) of this subparagraph (1) shall be used in apportioning such adjusted cotton acreage among the tracts.

(b) In case the farm being divided was established by combining two or more tracts of land for 1954 or for 1955, each such tract shall be referred to herein as an "identical tract", and the adjusted cotton acreage for 1953 (in case of a combination for 1954) or for 1953 and 1954 (in case of a combination for 1955) shall be divided among the identical tracts as follows:

(1) Where any such adjustment in the acreage planted to cotton was made prior to the combination and the adjusted cotton acreage for that year for the combined farm which was used in establishing the original 1956 farm acreage allotment is the same as when the combination was made, the adjusted cotton acreage which was used for the identical tract in making the combination shall be reestablished for the tract for that year.

(2) Where any such adjustment in the acreage planted to cotton was made prior to the combination and the adjusted cotton acreage for that year for the combined farm which was used in establishing the original 1956 farm acreage allotment is less than when the combination was made, the adjustment for each identical tract in making the combination shall be reduced by the same percentage that the adjustment previously applicable for the combined farm was reduced.

(3) Where any such adjustment (upward) for any year for the combined farm which was used in establishing the original 1956 farm acreage allotment is larger than the adjustment in effect at the time the combination was made, the county committee shall determine the share of the increase in the adjustment which is to be assigned to each identical tract on the basis of the conditions obtaining on the tract which were the cause for the increase and shall add its share of such increase to the adjusted cotton acreage determined for each such tract for that year prior to the combination.

(4) Where any such adjustment (upward) in the acreage planted to cotton in a year prior to the combination was initially made in establishing the original

1956 farm acreage allotment, the county committee shall determine the share of the adjustment which is to be assigned to each identical tract and shall add its share of such increase to the planted cotton acreage for each such tract for that year.

(5) If, in establishing the original 1956 farm acreage allotment for a farm which was established by combining two or more tracts of land for 1954 or for 1955, the acreage planted to cotton on the combined farm was adjusted downward for abnormal conditions affecting plantings, the county committee shall determine the share of the adjustment which is to be assigned to each identical tract and make a corresponding reduction in the acreage planted to cotton on such tract for that year.

(c) Where an identical tract is divided, the adjusted cotton acreage for that year for the identical tract shall be divided among the tracts thereof in proportion to the acreage of cropland on each such tract, except that upon agreement by the owners and operators and approval by the county committee the acreages normally considered as riceland, wheatland, and sugarcane land may be excluded from the cropland on each tract in apportioning the adjusted cotton acreage for the identical tract among the tracts thereof.

(iii) In counties where farm acreage allotments are determined on the cropland basis the 1956 farm acreage allotment established for the single farm shall be apportioned among the tracts on the basis of the cropland used or which would be used for each such tract in apportioning the 1955 cotton acreage among the tracts pursuant to subdivision (i) of this subparagraph.

(iv) In counties where farm acreage allotments are determined on the historical basis the 1956 farm acreage allotment established for the single farm shall be apportioned among the tracts in proportion to the allotment bases determined for such tracts.

(v) The sum of the 1956 allotments established for the several tracts shall not exceed the 1956 acreage allotment initially established for the single farm, except that the allotment determined under the foregoing provisions of this subparagraph for any farm consisting of such a tract or of which such a tract becomes a part shall be increased to the extent required by the minimum farm allotment provisions, if applicable in the county, and may be (a) adjusted by the county committee with the reserve available to correct inequities and to prevent hardship, and (b) increased with released acreage available to the county committee under paragraphs (j) and (k) of this section.

(2) If two or more tracts of land are combined and operated as a single farm in 1956 the allotment established for such single farm shall be the sum of the allotments established for such tracts, except that (i) the allotment for the single farm shall be increased to the extent required by the minimum allotment provisions if applicable in the county, and (ii) the allotment for such single farm shall not exceed the maximum farm allotment if such allotment limi-

tation is in effect in the county: *Provided*, That the allotment determined for such single farm under the foregoing provisions of this subparagraph may be (a) adjusted by the county committee with the reserve available to correct inequities and to prevent hardship and (b) increased with released acreage available to the county committee under paragraphs (j) and (k) of this section.

(i) *Availability of reserves for inspection by interested cotton producers.* The allocations to the county from the State acreage reserve and the total amount and the distribution of the county acreage reserve shall be available in the office of the county committee for examination by any interested producer.

(j) *Release and reapportionment of cotton acreage allotments.* Any part of any 1956 farm acreage allotment which will not be used in 1956 and which is voluntarily released to the county committee by the farm owner or operator by the applicable closing date shall be deducted from the farm acreage allotment and may be reapportioned by the county committee not later than the applicable closing date to other farms receiving farm acreage allotments in the same county in amounts determined by the county committee to be fair and reasonable on the basis of past acreages of cotton, land, labor, and equipment available for the production of cotton, crop-rotation practices, and soil and other physical facilities affecting the production of cotton. The State committee shall establish closing dates for purposes of the foregoing provisions for the entire State or for areas in the State if there is a substantial difference in planting dates for different areas in the State. The closing date so established for releasing farm acreage allotments shall be the date on which the planting of cotton normally becomes general on farms in the State or area, and the closing date so established for reapportionment of such released acreage to other farms in the same county shall be the latest date on which cotton can normally be planted on farms in the State or area with reasonable expectation of producing an average crop. If all of the allotted acreage voluntarily released is not needed in the county, the county committee may surrender the excess acreage to the State committee for reapportionment to counties as provided in § 722.716 (g). Any farm acreage allotment released for 1956 only shall, in determining future farm cotton acreage allotments, be regarded as having been planted on the farm from which such allotment was released if cotton was planted on such farm in at least one of the years in the three-year farm base period, except that acreage released by the owner or operator of a new cotton farm will not be regarded as planted on such farm unless a part of such allotment is retained and cotton is planted on the farm in 1956. Any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided in this paragraph. In determining future farm cotton acreage allotments, the planting in 1956 of reappor-

tioned acreage allotments shall not be considered. For the purpose of determining future State and county acreage allotments, reapportioned acreage will be credited to the State and to the county in which such acreage was planted. Notwithstanding the foregoing provisions of this paragraph, the county committee shall not accept a release of a farm acreage allotment permanently or for 1956 only, if (1) such release is opposed by the owner or operator or the holder of a real estate lien on the farm, or (2) the county committee determines that the farm is being acquired for governmental or other public purposes.

(k) *Apportionment of surrendered acreage allocated to county by State committee.* The acreage apportioned to the county under paragraph (g) of § 722.716 may be used by the county committee for establishing and adjusting farm acreage allotments for new farms or small farms or to correct inequities and to prevent hardship in accordance with the provisions of paragraphs (c) and (f) of this section.

§ 722.718 *Allotments for special farms—(a) Allotments for farms returned to agricultural production.* The owner or operator of any cotton farm, in an area acquired in 1940 or thereafter for nonfarming purposes by the United States or by any State or agency thereof, which has been returned to agricultural production and which is not eligible under the regulations in this subpart for an acreage allotment as an old cotton farm, may apply to the county committee for a 1956 cotton acreage allotment for such farm. Any such application shall be in writing and shall be filed within three years after the date of acquisition of such farm by the applicant but not later than the closing date established by the State committee, which shall not be later than March 1, 1956. No such owner or operator shall be eligible for an acreage allotment under this paragraph unless it is established to the satisfaction of the county committee that such person was the owner or operator of a cotton farm at the time it was acquired by the United States or any State or agency thereof. The acreage allotment established for any such farm shall compare with the acreage allotments established for other farms in the same area which are similar, taking into consideration the cotton acreage allotment, if any, last established for such farm; the land, labor, and equipment available for the production of cotton; crop-rotation practices; and the soil and other physical facilities affecting the production of cotton.

(b) *Allotments for other farms owned or operated by persons from whom cotton farms were acquired.* The county committee shall establish an acreage allotment or consider an adjustment in the acreage allotment determined under § 722.717, for any farm within the State owned or operated by a person from whom a cotton farm was acquired in the State in 1940 or thereafter for governmental or other public purposes, provided application therefor is filed within three years after acquisition of such farm by the applicant. The acreage allotment es-

tablished for any such farm shall compare with the acreage allotments established for other farms in the same area which are similar, taking into consideration the cotton acreage allotment, if any, of the farm so acquired from the owner or operator; the land, labor, and equipment available for the production of cotton; crop-rotation practices; and the soil and other physical facilities affecting the production of cotton: *Provided*, That no person shall be entitled to receive an acreage allotment under both this paragraph and paragraph (a) of this section, and no person who, since his farm was acquired for governmental or other public purpose, has acquired an old cotton farm that for 1956 will have a representative cotton acreage allotment, shall be entitled to receive an allotment under this paragraph.

(c) *Cotton farm.* For the purposes of paragraphs (a) and (b) of this section "cotton farm" means any farm on which there was an acreage planted to cotton (or regarded as planted to cotton under Public Law 12, 79th Congress and section 344 (1) of the act) during any of the three years immediately preceding the year in which the farm was acquired by the United States, or any State or any agency thereof, or for any public purpose.

(d) *Acreage allotted in addition to county and State acreage allotments.* Except to the extent that the production of any farm for which an acreage allotment is established under paragraphs (a) and (b) of this section has contributed to the county and State acreage allotments, the additional acreage allotted to farms under paragraphs (a) and (b) of this section shall be in addition to the acreage allotments otherwise established for the county and State under the applicable provisions of the regulations in this subpart and the production of the additional acreage so allotted shall be in addition to the national marketing quota established for 1956 pursuant to Section 342 of the Act.

(e) *Reallocation of allotments for flooded farms.* In any county in which a major flood control reservoir constructed by the United States Government is located wholly or in part, farm acreage allotments, established pursuant to the provisions of § 722.717 for the production of cotton on the lands within such reservoir, which lands, because of permanent or perennial flooding occasioned by the construction of such reservoir, shall be unfit for further cotton production, may be reallocated, within the discretion of the county committee, to other farms within the county as will in the opinion of the committee best serve the public interest.

(f) *Publicly owned agricultural experiment stations—(1) Acreage allotments for farms operated by publicly owned agricultural experiment station.* A farm acreage allotment shall be established pursuant to the provisions of § 722.717 for a farm operated by a publicly owned agricultural experiment station.

(2) *Conditions under which production is exempted from penalty.* The marketing penalty shall not apply to the marketing of any cotton of the 1956

crop which is grown, for experimental purposes only, on a farm operated by a publicly owned agricultural experiment station and produced at public expense by employees of the experiment station. Where the acreage planted to cotton on a farm operated by a publicly owned agricultural experiment station is in excess of the farm acreage allotment, the acreage used for determining the marketing excess, if any, for the farm shall be the smaller of (i) the acreage planted to cotton on the farm in excess of the farm acreage allotment, or (ii) the acreage planted to cotton on the farm which is not for experimental purposes. Also, the marketing penalty shall not apply to cotton produced for experimental purposes on other land by a person pursuant to a written agreement with a publicly owned agricultural experiment station whereby the experiment station bears the costs and risks incident to the production of the cotton and the proceeds from the crop inure to the benefit of the experiment station and such agreement is approved by the State committee. Such approval will be given if the State committee finds that the agreement conforms to the requirements of this subparagraph.

LONG STAPLE COTTON

§ 722.719 *Extra long staple cotton—(a) If marketing quotas under section 347 of the act are in effect for the 1956 crop.* If marketing quotas for extra long staple cotton are in effect for the 1956 crop, the provisions of this subpart relating to upland cotton shall not apply to those types of extra long staple cotton which are subject to marketing quotas under the provisions of section 347 of the act.

(b) *If marketing quotas under section 347 of the act are not in effect for the 1956 crop.* If marketing quotas for extra long staple cotton are not in effect for the 1956 crop—

(1) All of the 1956 crop of American-Egyptian cotton which is produced from pure strain seed in Cochise, Graham, Greenlee, Maricopa, Mohave, Pima, Pinal, Santa Cruz and Yuma Counties, Arizona; and Imperial and Riverside Counties, California; and Dona Ana, Eddy, Luna, Otero and Sierra Counties, New Mexico; and Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell and Ward Counties, Texas, shall be exempted from all provisions of the regulations in this subpart with respect to marketing quotas for the 1956 crop of upland cotton, provided, the American-Egyptian cotton is ginned on a roller-type gin or the Deputy Administrator authorizes such cotton to be ginned on another type gin for experimental purposes or to prevent loss of such cotton due to frost or other adverse conditions, except that such exemption shall not apply to any farm unless the approval of the county committee for the planting of such cotton on the farm is obtained in advance of planting time. Such approval shall be based upon findings by the county committee (i) that pure strain American-Egyptian cottonseed is to be planted and (ii) that roller-type gin facilities are available in the area for the ginning of such cotton and

that such facilities will be used in the ginning of all cotton produced from such seed. In connection with determining the purity of seed, the county committee may require the farm operator to furnish approved purity test certificates or approved State certification tags covering the American-Egyptian seed to be planted showing that such seed is of pure strain.

(2) All of the 1956 crop of Sea Island and Sealand cotton which is produced from pure strain seed in Alachua, Bradford, Columbia, Hamilton, Jefferson, Lake, Madison, Marion, Orange, Putnam, Seminole, Sumter, Suwannee, Union and Volusia Counties, Florida; and Atkinson, Berrien, Cook and Lanier Counties, Georgia; and all of the 1956 crop of Sea Island cotton which is produced from pure strain seed in Puerto Rico, shall be exempted from all provisions of the regulations in this subpart with respect to marketing quotas for the 1956 crop of upland cotton, provided the Sea Island and Sealand cotton is ginned on a roller-type gin or the Deputy Administrator authorizes such cotton to be ginned on another type gin for experimental purposes or to prevent loss of such cotton due to frost or other adverse conditions, except that such exemption shall not apply to any farm unless the approval of the county committee for the planting of such cotton on the farm is obtained in advance of planting time. Such approval shall be based upon findings by the county committee (i) that pure strain Sea Island cottonseed, or pure strain Sealand cottonseed, is to be planted and (ii) that roller-type gin facilities are available in the area for the ginning of such cotton and that such facilities will be used in the ginning of all cotton produced from such seed. In connection with determining the purity of seed, the county committee may require the farm operator to furnish approved purity test certificates or approved State certification tags covering the Sea Island seed and the Sealand seed to be planted showing that such seed is of pure strain.

(3) Any cotton produced from the 1956 crop which staples one and one-half inches or more in length and which is ginned on a roller-type gin, or the Deputy Administrator authorizes the cotton to be ginned on another type gin for experimental purposes or to prevent loss of the cotton due to frost or other adverse conditions, shall be exempted from the provisions of the regulations in this subpart with respect to marketing quotas for the 1956 crop of upland cotton regardless of where the cotton is produced in the United States or the variety of cotton from which such cotton is produced.

FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 722.720 *Notice of farm acreage allotment and marketing quota.* Immediately after farm acreage allotments in a county or other local administrative area are established and approved by the State committee pursuant to § 722.729 (a), the county committee shall mail to the operator of each such farm a written notice of the farm acreage allotment

and marketing quota for the farm. The county committee shall also mail to the operator of each new cotton farm for which application for an allotment is made but for which it is determined that no farm acreage allotment and marketing quota will be established, a similar written notice showing "None" as the acreage allotment and marketing quota established for the farm. The notice shall contain at or near the top thereof the following statement: "To all persons who as operator, landlord, tenant, or sharecropper will be interested in the cotton produced on the farm for which this acreage allotment and marketing quota are established." Notice so given shall constitute notice to all such persons. Such notice shall also contain a brief statement of the procedure whereby application for review of the marketing quota may be made under section 363 of the act. A copy of each notice, containing a notation thereon of the date of mailing the notice to the operator of the farm, shall be kept among the permanent records of the county committee, and upon request a copy thereof, duly certified as a true and correct copy, shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper, is interested in the cotton produced in 1956 on the farm for which the notice is given. Insofar as practicable, the notice for each old cotton farm shall be prepared and mailed to the operator so as to be received prior to the referendum to determine whether cotton farmers favor or oppose marketing quotas for the 1956 crop.

§ 722.721 *Amount of the farm marketing quota.* The farm marketing quota for any farm for the 1956 crop of cotton shall be the actual production of lint cotton on the farm less the farm marketing excess.

§ 722.722 *Amount of the farm marketing excess.* The farm marketing excess for the 1956 crop of cotton shall be the normal production of the acreage of cotton on the farm in excess of the farm acreage allotment: *Provided*, That, such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment if the producer establishes such actual production in accordance with regulations to be issued under this part by the Secretary.

§ 722.723 *Publication of farm acreage allotments and marketing quotas.* One copy of each notice of the farm acreage allotment and marketing quota for farms in a county shall be placed in binders or folders, or in lieu thereof a listing of such allotments shall be prepared, and such notices or listing shall be kept freely available in the office of the county committee for public inspection for a period of not less than thirty calendar days. At the end of such period the copies of the notices or the listing shall be filed in the office of the county committee and remain readily available for further public inspection. If the county is divided into administrative areas, separate binders, folders, or

listings shall be prepared and made available for inspection for each administrative area. The listing sheets on which farm acreage allotments are determined shall be kept available with the Chairman of the county committee at the office of the county committee.

§ 722.724 *Successors-in-interest.* Any person who succeeds to the interest of a producer in a farm, or in a cotton crop, or in cotton for which a farm marketing quota and farm marketing excess were established, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the restrictions on the marketing of cotton.

§ 722.725 *Marketing quotas not transferable.* A farm marketing quota is established for a farm and, except as specifically provided for in § 722.717 (j) and (k) and § 722.718 (d) and (e), may not be assigned or otherwise transferred in whole or in part to any other farm.

MISCELLANEOUS PROVISIONS

§ 722.726 *Measurement of farms to determine compliance with allotments—*
(a) *Premeasurement.* The county committee shall provide for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if the farm operator requests such measurement and pays the cost thereof, as determined by the county committee, and any farm on which such measured acreage is the only acreage planted to cotton shall be deemed to have an acreage not in excess of the farm acreage allotment.

(b) *Measurement after planting.* Measurement of the acreage planted to cotton on each farm in the county shall be made under the general supervision of the county committee in accordance with the following provisions:

(1) The measurement of the farm shall be made by an employee of the county committee who has been designated as a reporter and determined by the county office manager to be qualified to carry out the duties of a reporter. A reporter may be assisted in the measurement of a farm by another reporter, a community, county, or State committee-man, a State committee representative, any employee of the county office when authorized by the county office manager, or by any employee of the U. S. Department of Agriculture when authorized by the Deputy Administrator. The reporter may request the operator or producer or his representative to designate all fields on the farm on which cotton was planted in 1956 and otherwise to assist in measuring the farm. If so requested, the operator or producer or his representative shall so designate all fields planted to cotton on the farm in 1956. The reporter may utilize any assistance from the operator or producer or his representative in measuring the farm.

(2) The county office manager shall have responsibility for assigning, in writing, insofar as practicable, the farms in the county to be measured by a reporter.

(3) A reporter shall visit each farm assigned to him for measurement and

enter thereon if such entry will facilitate measurement. Upon request he will obtain and exhibit to the farm operator, producer, or owner his written assignment to measure the farm.

(4) Measurement may be made by identification of fields or parts of fields by use of a map or aerial photograph, or by means of a steel or metallic tape or chain, or rod and chain, or by use of a measuring wheel when authorized by the Deputy Administrator, or by a combination of two or more of the foregoing methods. The pertinent data and information for the farm shall be entered by the reporter on the Form CSS-578, and on maps or aerial photographs where applicable, and filed in the county office. Computations of acreages shall be made by an employee in the county office from the data so obtained, and the use of a planimeter or rotometer in connection therewith is authorized.

(5) Measurements of whole fields made prior to the effective date of this § 722.726 and in accordance with existing procedures then in effect may be utilized where pertinent for the purpose of ascertaining with respect to any farm the acreage planted to cotton in 1956 and the acreage of cotton in excess of the 1956 farm acreage allotment.

(c) *Notice of measured acreage and disposition of excess acreage.* The county committee shall notify the farm operator by mail of the 1956 measured acreage of cotton on the farm. If such acreage is in excess of the farm acreage allotment, the county committee shall also notify the farm operator that unless the acreage of cotton on the farm is adjusted to the farm acreage allotment within the time established under this paragraph the farm marketing excess for the farm will be determined on the basis of the excess acreage and the normal yield for the farm. Notice so given shall constitute notice to each producer having an interest in the 1956 crop of cotton produced on the farm. If producers on the farm do not dispose of the excess cotton acreage within 20 days after notice of the measured cotton acreage is mailed to the farm operator as provided in this paragraph, or within 20 days after notice of the remeasured cotton acreage determined pursuant to paragraph (d) of this section is mailed to the farm operator, and a request in writing for additional time and a showing to the satisfaction of the county committee that circumstances beyond their control prevented the disposition of the excess acreage within the applicable 20-day period is filed with the county committee, the county committee may allow an additional period not to exceed 10 days for disposing of the excess acreage. No cotton acreage shall be disposed of for purposes of adjusting the planted acreage of cotton to the farm acreage allotment after any cotton has been harvested from such planted acreage.

(d) *Remeasurement.* The county committee shall provide for the remeasurement, upon request by the farm operator, of the acreage planted to cotton on the farm, but the operator shall be required to deposit with the treasurer of the

county committee an amount equal to the estimated cost of such remeasurement and such deposit shall not be returned to the farm operator if the planted acreage is found upon such remeasurement to be in excess of the farm acreage allotment. Where the farm operator requests an additional remeasurement of the acreage planted to cotton on the farm, the county committee shall provide for such remeasurement only if it finds, on the basis of evidence presented by the farm operator and other available information or data, that an error was probably made in the prior remeasurement.

(e) *Measurement of acreage disposed of.* If the excess cotton acreage on any farm is disposed of within the time allowed pursuant to paragraph (c) of this section and a producer on the farm requests that the acreage disposed of be measured and pays the estimated cost of measuring such acreage, the county committee shall provide for such measurement.

§ 722.727 *Future effect of underplanting or overplanting farm acreage allotment—(a) Underplanting the farm acreage allotment.* For any farm on which cotton is planted in 1956 and the acreage of cotton in 1956 is less than the 1956 farm acreage allotment by not more than the larger of 10 percent of the allotment or one acre, an acreage equal to the farm acreage allotment shall be deemed to be the acreage planted to cotton on the farm in 1956, and the additional acreage added to the cotton acreage history for the farm shall be added to the cotton acreage history for the county and State.

(b) *No credit for overplanting the farm acreage allotment.* Any acreage planted to cotton in 1956 in excess of the farm acreage allotment for the 1956 crop of cotton shall not be taken into account in establishing State, county, and farm acreage allotments for the 1957 and subsequent crops of cotton.

§ 722.728 *Availability of records.* The State and county committees shall make available for inspection by owners or operators of farms receiving cotton acreage allotments, all records pertaining to cotton acreage allotments and marketing quotas.

§ 722.729 *Approval of county committee determinations and redelegation of authority by the State committee—(a) Approval of county committee determinations.* The State committee shall review all acreage allotments and may revise or require revision of any determinations made under §§ 722.717 to 722.726. All acreage allotments for both old and new cotton farms shall be approved by the State committee, and no official notice of farm acreage allotment and marketing quota shall be mailed to a farm operator until such allotment has been approved by the State committee.

(b) *Redelegation of authority.* Any authority delegated to the State committee by the regulations in §§ 722.717 to 722.729 (a), inclusive, may be redelegated by the State committee.

REVIEW OF FARM ACREAGE ALLOTMENT

§ 722.730 *Review of farm acreage allotment—(a) Review committees.* Any producer who is dissatisfied with the farm acreage allotment established for his farm, or in the case of a new cotton farm with the action of the county committee in refusing to establish a farm acreage allotment for such farm, may, by making application within 15 days after the mailing to him of the notice provided for in § 722.720, have such allotment reviewed by a review committee composed of three farmers appointed by the Secretary pursuant to section 363 of the act. The review committee shall, upon proper application, review the action of the county committee. The review committee in determining any farm acreage allotment shall, to the same extent as the county committee, be limited to the establishment of a farm acreage allotment in an amount which, under the act and regulations, should have been established. Unless such application is made within 15 days, the original determination of the farm acreage allotment shall be final. All applications for review shall be made in accordance with the marketing quota review regulations issued by the Secretary, a copy of which may be obtained from the county committee.

(b) *Court review.* If the producer is dissatisfied with the determination of the review committee, he may, within 15 days after notice of such determination is mailed to him by registered mail, institute proceedings against the review committee to have the determination of the review committee reviewed by a court in accordance with section 365 of the act.

NOTE: The reporting and record-keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 28th day of October 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-8884; Filed, Nov. 2, 1955; 8:52 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 955—GRAPEFRUIT GROWN IN ARIZONA; IMPERIAL COUNTY, CALIFORNIA, AND THAT PART OF RIVERSIDE COUNTY, CALIFORNIA, SITUATED SOUTH AND EAST OF THE SAN GORGONIO PASS

DETERMINATION RELATIVE TO EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1955-1956 FISCAL PERIOD

On October 14, 1955, notice of proposed rule making was published in the FEDERAL REGISTER (20 F. R. 7738) regarding the expenses and rate of assessment for the 1955-1956 fiscal period under Marketing Agreement No. 96, as

amended, and Order No. 55, as amended (7 CFR Part 955), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of the San Geronimo Pass. This regulatory program is effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Administrative Committee (established pursuant to the amended marketing agreement and order), it is hereby found and determined that:

§ 955.209 Expenses and rate of assessment for the 1955-1956 fiscal period.

(a) The expenses necessary to be incurred by the Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for its maintenance and functioning during the fiscal period beginning August 1, 1955, will amount to \$20,250.00; and the rate of assessment to be paid by each handler who first ships grapefruit shall be one and one-half cents (\$0.015) per standard box of fruit shipped by such handler as the first handler thereof during the said fiscal period. Such rate of assessment is hereby fixed as each such handler's pro rata share of the aforesaid expenses.

(b) As used in this section, "handler," "ship," "fruit," "fiscal period," and "standard box" shall each have the same meaning as is given to each such term in said amended marketing agreement and order.

(c) The provisions of this section shall become effective 30 days after publication in the FEDERAL REGISTER.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: October 31, 1955.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 55-8882; Filed, Nov. 2, 1955; 8:52 a. m.]

[Docket No. AO-271]

PART 1004—MILK IN CENTRAL ARIZONA MARKETING AREA

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AUTHORITY: §§ 1004.1 to 1004.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 1004.0 Findings and determinations—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hear-

ing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Central Arizona marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of and demand for such milk, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro rata share of such expenses, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight, as the Secretary may prescribe with respect to all butterfat and skim milk contained in (i) producer milk (including such handler's own production), and (ii) other source milk in pool plants which is allocated to Class I milk.

(b) *Additional findings.* It is necessary in the public interest to make this order partially effective not later than November 16, 1955, and fully effective not later than December 1, 1955. Any delay beyond these dates will seriously threaten the orderly marketing of milk in the Central Arizona marketing area. The provisions of this order are known to handlers. The public hearing upon which this order is based was conducted on April 19-23, 1955. The recommended decision of the Deputy Administrator, Agricultural Marketing Service, was published in the FEDERAL REGISTER on August 30, 1955 (20 F. R. 6340). The final decision, which contained the same requirements on the part of handlers as were in the recommended decision, was issued by the Assistant Secretary of Agriculture on October 7, 1955, and published in the FEDERAL REGISTER on October 13, 1955. Thus, handlers have known of these impending requirements for some time and should be prepared. Furthermore, producers continue to lose substantial income, and marketing conditions continue to remain unstabilized, each day the effective date of the order is delayed. The order also provides that payments to producers during the months of January through June be

based on their average daily deliveries of milk to handlers during October and November 1955. In view of the foregoing, it is hereby found and determined that good cause exists for making this order partially effective November 16, 1955, and fully effective December 1, 1955, and that it would be contrary to the public interest to delay the effective date of this order for thirty days after its publication in the *FEDERAL REGISTER*. (See section 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order, which is marketed within the Central Arizona marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area;

(3) The issuance of this order is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of its issuance and who, during the determined representative period (August 1955), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Central Arizona marketing area shall be in conformity to and in compliance with the terms and conditions of this order as set forth below:

DEFINITIONS

§ 1004.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 1004.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1004.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 1004.4 *Person.* "Person" means any individual, partnership, corporation, association or any other business unit.

§ 1004.5 *Cooperative association.* "Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk for its members.

§ 1004.6 *Central Arizona marketing area.* "Central Arizona marketing area" hereinafter called the "marketing area" means all territory included within the counties of Maricopa, Pima, Pinal, Graham, and the territory south of 33 degrees latitude (North from the Equator) in Yuma County, all in the State of Arizona.

§ 1004.7 *Producer.* "Producer" means any person other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority having jurisdiction within the marketing area and whose milk is received at a pool plant or is diverted from a pool plant by the handler who operates such pool plant, or by a cooperative association, to a plant which is not a pool plant for the account of such handler or cooperative association. "Producer" does not mean any dairy farmer with respect to milk received by a handler who is partially exempted from the provisions of this part pursuant to § 1004.61.

§ 1004.8 *Pool plant.* "Pool plant" means any milk plant:

(a) Approved or recognized by any health authority having jurisdiction within the marketing area for the receipt or processing of Grade A milk and from which Class I milk is disposed of on a route(s) in the marketing area;

(b) Supplying to any agency of the United States Government located within the marketing area Class I milk products; or

(c) Any plant which ships fluid milk products approved by any health authority having jurisdiction in the marketing area as eligible for distribution under a Grade A label in a volume equal to not less than 50 percent of its receipts of milk (from dairy farmers who would be producers if this plant qualifies as a pool plant) in the current month during the period of July through October or 20 percent in the current month during the period November through June to a plant specified in paragraph (a) of this section: *Provided*, That if a plant qualifies in each of the months of July through October in the manner prescribed in this section such plant shall upon written application to the market administrator on or before October 31 following such compliance, be designated as a pool plant until the end of the following June.

(d) For the purpose of this definition, milk diverted from a pool plant to a non-pool plant as described in § 1004.7 shall be deemed to have been received at the pool plant from which such milk was diverted.

§ 1004.9 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 1004.10 *Handler.* "Handler" means (a) any person in his capacity as the operator of a pool plant; or (b) a co-

operative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 1004.7.

§ 1004.11 *Producer-handler.* "Producer-handler" means any person who is both a dairy farmer and the operator of a pool plant in accordance with § 1004.8 (a) or (b), but who receives no milk from producers or other dairy farmers: *Provided*, That, such person provides proof satisfactory to the market administrator that (a) the maintenance, care and management of all the dairy animals and other resources necessary to produce the entire amount of milk handled (other than that received from pool plants) is the personal enterprise of and at the personal risk of such person in his capacity as a producer, and (b) the operation of such pool plant is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 1004.12 *Market administrator.* "Market administrator" means the person designated pursuant to § 1004.20 as the agency for the administration of this part.

§ 1004.13 *Producer milk.* "Producer milk" means all skim milk and butterfat produced by a producer, which is received at a pool plant directly from such producer.

§ 1004.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the pool plant) which are reprocessed or converted to another product in the pool plant during the month.

§ 1004.15 *Fluid milk product.* "Fluid milk product" means milk (including frozen or concentrated milk), skim milk, buttermilk, flavored milk, flavored milk drinks and cream in fluid form or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, yogurt, ice cream mix and aerated cream).

§ 1004.16 *Route.* "Route" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or a plant store) of milk or any milk product classified as Class I milk pursuant to § 1004.41 (a) other than a delivery to a plant described in § 1004.8 (a).

§ 1004.17 *Base milk.* "Base milk" means producer milk received by handlers from a producer during the months of January through June which is not in excess of such producer's daily base determined pursuant to § 1004.90, multiplied by the number of days during the month for which milk was received from such producer.

§ 1004.18 *Excess milk.* "Excess milk" means producer milk received by handlers from a producer which is in excess

of base milk received from such producer during the months of January through June of each year.

§ 1004.19 Chicago butter price. "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 1004.20 Designation. The agency for the administration of this order shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1004.21 Powers. The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations; and
- (d) To recommend amendments to the Secretary.

§ 1004.22 Duties. The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

- (a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditions upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds received pursuant to § 1004.86: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 1004.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose to handlers and producers, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not

made reports pursuant to §§ 1004.30 through 1004.32 or payments pursuant to §§ 1004.80 through 1004.86;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(i) Verify all reports and payments of each handler by audit necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;

(j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information; and

(k) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address a notice of, the following:

(1) The 6th day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the Class II milk price, and the Class II butterfat differential, both for the preceding month, and

(2) The 11th day of each month, the uniform price, and the producer butterfat differential, both for the preceding month.

REPORTS, RECORDS, AND FACILITIES

§ 1004.30 Reports of sources and utilization. On or before the 7th day after the end of each month each handler, except a producer-handler, shall report for each of his pool plants for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

- (1) Producer milk,
- (2) Fluid milk products received from other pool plants,
- (3) Other source milk,
- (4) Inventories of fluid milk products on hand at the beginning of the month; and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements as to the disposition of Class I milk on routes entirely outside the marketing area, and inventories of fluid milk products on hand at the end of the month.

§ 1004.31 Other reports. (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) Each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 7th day of each of the months of February through July the aggregate quantity of base milk received at his pool plant(s) for the preceding month,

(2) On or before the 20th day after the end of the month, for each of his pool plants, his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of January through June, the pounds of base milk, (iii) the days for which milk was received from such producer if less than the entire month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any authorized deductions,

(3) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product;

(4) On or before the day prior to diverting producer milk pursuant to § 1004.7 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted, and

(5) Such other information with respect to his sources and utilization of butterfat and skim milk as the market administrator may prescribe.

(c) Each handler operating a pool plant shall report the total quantity of milk received from each producer and the number of days of such delivery for each of the months of October 1955 and November 1955, together with such other information relating to the computation of bases to be in effect in the January-June 1956 period as the market administrator may prescribe.

§ 1004.32 Records and facilities. Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 1004.33 Retention of records. All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to

begin at the end of the month to which such books and records pertain; *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1004.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat to be reported for pool plants pursuant to § 1004.30 (a) shall be classified each month by the market administrator, pursuant to the provisions of §§ 1004.41 through 1004.45.

§ 1004.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1004.42 through 1004.45, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including reconstituted and concentrated nonfat milk solids) and butterfat; (1) disposed of from the plant in the form of fluid milk products, except those classified pursuant to subparagraph (b) (3) of this section, and (2) not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat; (1) used to produce any product other than a fluid milk product; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of as skim milk for livestock feed; and (4) in shrinkage not to exceed 2 percent, respectively, of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 1004.7) and other source milk: *Provided*, That if shrinkage of skim milk or butterfat is less than such 2 percent it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 1004.7) and other source milk, respectively.

§ 1004.42 *Responsibility of handlers.* All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.

§ 1004.43 *Transfers.* (a) Skim milk and butterfat transferred to a pool plant of another handler (except a producer-handler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk. Any additional amounts of skim milk and butterfat shall be classified Class I milk unless the operators of both plants claim utili-

zation thereof in Class II milk in their reports submitted pursuant to § 1004.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk for any month shall be limited to the respective amounts thereof remaining in Class II milk for such month at the pool plant(s) of the receiving handler after the subtraction of other source milk pursuant to § 1004.45;

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall be classified as Class I milk;

(c) Skim milk and butterfat transferred or diverted in bulk form as milk or skim milk to a nonpool milk plant shall be classified as Class I unless, (1) the transferee-plant is located less than 250 miles from the City Hall of Phoenix or Tucson, Arizona, whichever is nearer, by the shortest hard-surfaced highway distance, as determined by the market administrator, (2) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1004.30 for the month within which such transaction occurred, (3) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (4) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *Provided*, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified as Class I milk; and

(d) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1004.30, (2) the handler attaches tags or labels to each container of such cream bearing the words "Grade C cream for manufacturing uses only" and the shipment is so invoiced, (3) the handler gives the market administrator sufficient notice to allow him to verify the shipment, (4) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (5) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: *Provided*, That, if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified as Class I milk.

§ 1004.44 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and other obvious errors, the report submitted by

each handler pursuant to § 1004.30 and compute the total pounds of skim milk and butterfat respectively, in Class I milk and Class II milk at all of the pool plants of such handler: *Provided*, That, the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1004.45 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month.

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 1004.41 (b),

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk,

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk,

(4) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 1004.43 (a),

(5) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(6) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with Class II milk. Any amount so subtracted shall be called "overage";

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk;

(c) Add the pounds of skim milk and the pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in the producer milk allocated to each class.

MINIMUM PRICES

§ 1004.50 *Basic formula price.* The higher of the prices computed pursuant

to paragraphs (a) and (b) of this section, rounded to the nearest whole cent, shall be known as the basic formula price.

(a) The average of the basic, or field, prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department, divided by 3.5 and multiplied by 3.8:

Present Operator and Location

Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values of subparagraphs (1) and (2) of this paragraph:

(1) From the Chicago butter price, subtract 3 cents, add 20 percent thereof, and multiply by 3.8.

(2) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.962.

§ 1004.51 *Class prices.* Subject to the provisions of §§ 1004.52 and 1004.53, the minimum prices per hundredweight to be paid by each handler for milk received at his pool plant(s) from producers during the month shall be as follows:

(a) *Class I milk price.* For each month during an eighteen month period following the effective date of this order, the minimum price per hundredweight of Class I milk containing 3.8 percent butterfat shall be the basic formula price for the preceding month plus \$2.80.

(b) *Class II milk price.* The Class II milk price shall be the "butter-powder" price computed pursuant to § 1004.50 (b) during the months of July through December, and that price less 25 cents during the months of January through June.

§ 1004.52 *Butterfat differentials to handlers.* For each class of milk containing more or less than 3.8 percent butterfat, the class prices calculated pursuant to § 1004.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.175; and

(b) *Class II price.* Multiply the Chicago butter price for the current month by 0.115.

§ 1004.53 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 60 miles or more from the City Hall, Tucson, Arizona, by the shortest hard-surfaced highway distance as determined by the market administrator and which is assigned to Class I milk pursuant to the proviso of this section when moved to another pool plant, or classified as Class I milk without such movement, the price specified in § 1004.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the City Hall of Tucson, Ariz. (miles):	Rate per hundredweight (cents)
60 but not more than 160.....	30.0
160 but not more than 260.....	40.0
For each additional 10 miles or fraction thereof an additional.....	1.0

Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II milk in the plant to which transferred after making the calculations prescribed in § 1004.45 (a) (1) through (4), and the comparable steps in (b) for such plant, such assignment to the transferring plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1004.54 *Use of equivalent prices.* If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1004.60 *Producer-handler.* Sections 1004.40 through 1004.45, 1004.50 through 1004.53, 1004.70 through 1004.75, and 1004.80 through 1004.87 shall not apply to a producer-handler.

§ 1004.61 *Plants subject to other Federal orders.* Upon application to the market administrator and a subsequent determination by the Secretary, any plant specified in paragraph (a) or (b) of this section shall be treated as a non-pool plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

(a) Any pool plant which (1) would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, and (2) does

not dispose of a greater volume of Class I milk to retail or wholesale outlets (except pool plants or nonpool plants) in the Central Arizona marketing area than in the marketing area regulated pursuant to such other order; and

(b) Any plant which (1) would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, and (2) qualified as a pool plant for each of the preceding months of July through October in accordance with the provisions of § 1004.8 (c).

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1004.70 *Computation of the value of producer milk for each handler.* For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 1004.45 by the applicable class price, total the resulting amounts; and add any amount necessary to reflect adjustments in location differential allowance required pursuant to the proviso of § 1004.53;

(b) Add an amount computed by multiplying the pounds of any overage deducted from either class pursuant to § 1004.45 (a) (6) and (b) by the applicable class price; and

(c) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1004.45 (a) (4) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1004.45 (a) (3) and (b) for the current month, whichever is less.

§ 1004.71 *Computation of the uniform price.* For each of the months of July through December, the market administrator shall compute the uniform price per hundredweight of producer milk of 3.8 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 1004.70 for the producer milk of all handlers who submit reports prescribed in § 1004.30 and who are not in default of payments pursuant to §§ 1004.80 or 1004.82;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.8 percent, or add, if such average butterfat content is less than 3.8 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.8 percent by the butterfat differential computed pursuant to § 1004.73, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 1004.74;

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and
(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1004.72 Computation of uniform prices for base milk and excess milk. For each of the months of January through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.8 percent butterfat content, as follows:

(a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 1004.30, and who are not in default of payments pursuant to §§ 1004.80 or 1004.82 as follows: (1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price, (2) multiply the hundredweight of excess milk not included in subparagraph (1) hereof by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 3.8 percent butterfat content received from producers;

(c) Subtract the total value of excess milk, determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk, from the total value of producer milk for the month as determined according to the calculations set forth in § 1004.71 (a) through (d) (using location differentials applicable to base and excess milk);

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 3.8 percent butterfat content.

§ 1004.73 Butterfat differential to producers. The applicable uniform prices to be paid each producer shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 3.8 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 1004.52, dividing by the total butterfat in producer milk and rounding to the nearest even tenth of a cent.

§ 1004.74 Location differential to producers. The applicable uniform prices computed pursuant to §§ 1004.71 and 1004.72 (for base milk) to be paid for producer milk received at a pool plant located 60 miles or more from the City Hall at Tucson, Arizona, by the shortest hard-surfaced highway distance, as determined by the market administrator,

shall be reduced according to the location of the pool plant where such milk was received at the rates set forth in § 1004.53. The rates applicable to excess milk shall be determined by dividing the quantity of excess milk specified in § 1004.72 (a) (2) by the total quantity of excess milk and multiplying the result by the rates applicable to base milk.

§ 1004.75 Notification of handlers. On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the total thereof;

(b) For the months of January through June the amounts and value of his base and excess milk respectively, and the totals thereof;

(c) The uniform price(s) computed pursuant to §§ 1004.71 and 1004.72 and the butterfat differential computed pursuant to § 1004.73; and

(d) The amounts to be paid by such handler pursuant to §§ 1004.82, 1004.85, and 1004.86 and the amount due such handler pursuant to § 1004.83.

PAYMENTS

§ 1004.80 Time and method of payment for producer milk. (a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is receiving during the month as follows:

(1) On or before the 27th day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph,

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments: (i) Less payments made such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 1004.85, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1004.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator

determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month, and

(2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) for the months of January through June the total pounds of base and excess milk received, (iii) the amount or rate and nature of any authorized deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1004.84.

§ 1004.81 Producer-settlement fund. The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to § 1004.82 and out of which he shall make all payments pursuant to § 1004.83: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1004.82 Payments to the producer-settlement fund. On or before the 13th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 1004.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 1004.83 Payments out of the producer-settlement fund. On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 1004.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1004.84 *Adjustment of accounts.* Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1004.85 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1004.80, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of such deductions and the amount of milk for which such deduction was computed for each producer.

§ 1004.86 *Expense of administration.* On or before the 15th day after the end of each month, each handler shall pay to the market administrator, for each of his approved plants, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, and (b) other source milk allocated to Class I milk pursuant to § 1004.45 (a) (2) and (b).

§ 1004.87 *Termination of obligations.* The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such

money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation,
(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the amount for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

BASE RATING

§ 1004.90 *Computation of daily average base for each producer.* (a) Subject to the rules set forth in § 1004.91, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of August through November immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of November, inclusive, or by 90, whichever is more: *Provided*, That for the period from the effective date of this part through June 30, 1956, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of October 1955 and November 1955, by the number of days from the first day of delivery

by such producer during such months to the last day of November, inclusive, or by 45, whichever is more.

§ 1004.91 *Base rules.* The following rules shall apply in connection with the establishment and assignment of bases.

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 1004.90 to each person for whose account producer milk was delivered to pool plants during the months of August through November; and

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 1004.92 *Announcement of established bases.* On or before December 25 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1004.100 *Effective time.* The provisions of the part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1004.101 *Suspension or termination.* The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 1004.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1004.103 *Liquidation.* Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets,

books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1004.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 1004.111 *Separability of provisions.* If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 31st day of October 1955, to be effective as follows:

Sections 1004.0 through 1004.22 (j), 1004.30 through 1004.45 and 1004.86 through 1004.111 of this order shall be effective on and after November 16, 1955; and all of the remaining terms and provisions of this order (§§ 1004.22 (k) and 1004.50 through 1004.85) shall be effective on and after December 1, 1955.

[SEAL]

EARL L. BUTZ,
Assistant Secretary.

[F. R. Doc. 55-8891; Filed, Nov. 2, 1955; 8:53 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934

OVER-THE-COUNTER MARKETS

On August 30, 1955, the Commission published a proposal to amend paragraph (d) of its § 240.15c3-1 (Rule X-15c3-1) to delete from the rule the exemption for broker-dealers who do not (A) extend credit to customers or (B) carry money or securities for the account of customers or owe money or securities to customers except as an incident to transactions promptly consummated by payment or delivery. The Commission has considered all comments and suggestions received and has adopted the amendment in the form set forth below.

Section 240.15c3-1 provides that no broker or dealer shall permit his "aggregate indebtedness" to all other persons to exceed 2000 percent of his "net capital". Paragraph (c) of the rule defines the terms "aggregate indebtedness" and "net capital" and certain other terms used in the rule.

Subparagraph (b) (2) of the rule exempts from its requirements members of specified national securities exchanges. Before the amendment of subparagraph (b) (1) it exempted from the rule any broker or dealer who did not (A) extend credit to customers, or (B) carry money or securities for the account of customers or owe money or securities to customers except as an incident to transactions promptly consummated by payment or delivery. However, such broker-dealers frequently owe money or securities to customers in substantial amounts and it was felt that such customers need the safeguards which the rule affords with respect to the financial responsibility of such broker-dealers.

As subparagraph (b) (1) has been amended the exemption is now available only to brokers (A) whose activities are limited to soliciting subscriptions for issuers, (B) who promptly transmit to the issuer all funds, and promptly deliver to the subscriber all securities, received in connection therewith, and (C) who do not otherwise hold funds or securities for customers or owe money or securities to customers. The brokers to whom the new exemption is available would receive funds only on behalf of the issuer, and would have to transmit all such funds to the issuer promptly; and if the securities issued pursuant to the subscription are to be delivered to the purchaser through the broker they too would have to be delivered promptly. Securities issued in these situations would usually be issued in the name of the purchaser or his nominee, not in the name of the broker.

Statutory basis. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, particularly sections 15 (c) (3) and 23 (a) thereof, and deeming such action necessary in the public interest and for the protection of investors, and necessary to carry out its functions under the Act, hereby amends paragraph (b) (1) of § 240.15c3-1 to read as stated below.

§ 240.15c3-1 *Ratio of aggregate indebtedness to net capital.* * * *

(b) *Exceptions.* The provisions of this section shall not apply to:

(1) Any broker (i) whose securities business is limited to acting as agent for the issuer in soliciting subscriptions for securities of such issuer, (ii) who promptly transmits to the issuer all funds, and promptly delivers to the subscriber all securities, received in connection therewith, and (iii) who does not otherwise hold funds or securities for or owe money or securities to customers.

This action shall be effective December 1, 1955.

(Sec. 23, 48 Stat. 901 as amended; 15 U. S. C. 78w)

By the Commission.

[SEAL]

NELLYE A. THORSEN,
Assistant Secretary.

OCTOBER 24, 1955.

[F. R. Doc. 55-8874; Filed, Nov. 2, 1955; 8:49 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53933]

PART 6—AIR COMMERCE REGULATIONS

PART 7—CUSTOMS REGULATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

PART 22—DRAWBACK

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

EXCLUSION OF JOHNSTON ISLAND FROM CUSTOMS TERRITORY

There is published below for your information and guidance section 2, Public Law 126, 84th Congress, approved June 30, 1955, which amends certain customs and related laws with respect to Johnston Island.

SEC. 2. (a) The following provisions of the Tariff Act of 1930, as amended, are hereby amended by inserting "Johnston Island," immediately after "Kingman Reef," each place it appears therein:

(1) That part of section 1 which precedes schedule 1 (19 U. S. C., sec. 1001).

(2) That part of section 201 which precedes schedule 16 (19 U. S. C., sec. 1201).

(3) Section 401 (k) (19 U. S. C., sec. 1401 (k)).

(4) Section 557 (a) (19 U. S. C., sec. 1557 (a)).

(5) Section 562 (19 U. S. C., sec. 1562).

(b) Section 401 (a) of the Anti-Smuggling Act, as amended (19 U. S. C., sec. 1709 (a)), is hereby amended by inserting "Johnston Island," immediately after "Kingman Reef."

(c) Sections 542, 544, and 545 of title 18 of the United States Code are hereby amended by inserting "Johnston Island," immediately after "Kingman Reef," each place it appears therein.

(d) The amendments made by this section shall take effect on the day following the day on which this Act is enacted.

In order to conform with the above statute, the Customs Regulations are hereby amended as follows:

1. Section 6.1 (a) is amended by deleting the "and" before "Kingman Reef," and inserting "and Johnston Island," after "Kingman Reef."

(Secs. 624, 644, 46 Stat. 759, 761; 19 U. S. C. 1624, 1644)

2. Footnote 15, appended to § 7.8 (a), is amended by inserting "Johnston Island," after "Kingman Reef," in the first sentence; by deleting "and Kingman Reef" from the next to the last sentence; and by adding the following new sentence to the footnote: "A certificate signed by the Commander at the Johnston Island Air Force Base, or his assistant, shall be acceptable as proof of origin. Kingman Reef is understood to be uninhabited."

3. Section 7.8 (f) is amended by inserting "Johnston Island," after "Kingman Reef," in the first sentence and by deleting "or Kingman Reef" at the end of the third sentence and inserting

in its place "Kingman Reef, or Johnston Island".

(R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624. Interprets or applies sec. 401, 68 Stat. 1139; 19 U. S. C. 1301a)

4. Footnote 36, appended to § 8.41, is amended by inserting "Johnston Island," after "Kingman Reef,".

(Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

5. Footnote 6, appended to § 19.1 (a), is amended by inserting "Johnston Island," after "Kingman Reef,".

6. Footnote 15, appended to § 19.11 (b), is amended by inserting "Johnston Island," after "Kingman Reef,".

(Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

7. Section 22.27 (a) is amended by inserting "Johnston Island," after "Kingman Reef,".

8. Footnote 12, appended to § 22.27 (a), is amended by inserting "Johnston Island," after "Kingman Reef,".

9. Footnote 13, appended to § 22.27 (b) is amended by deleting "Johnston Island,".

(Sec. 624, 46 Stat. 759; 19 U. S. C. 1624. Interprets or applies sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

10. Footnote 15, appended to § 23.8, is amended by inserting "Johnston Island," after "Kingman Reef," in the last paragraph.

(R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624)

[SEAL]

RALPH KELLY,
Commissioner of Customs.

Approved: October 27, 1955.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 55-8888; Filed, Nov. 2, 1955;
8:53 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix C—Public Land Orders

[Public Land Order 1244]

[Anchorage 025198]

ALASKA

WITHDRAWING PUBLIC LAND FOR USE OF DEPARTMENT OF THE ARMY AS RECREATION AND TRAINING SITE

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public land in Alaska is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and the mineral-leasing laws, and reserved for use of the Department of the Army as a recreation and training site:

A parcel of land located on the south shore of Lake Louise, approximately 140 miles northeast of Anchorage, in the Third Judicial Division, Territory of Alaska, described as follows:

Beginning at a point on the mean high water line of Lake Louise at approximate latitude 62°16'55" North and longitude 146°31'10" West; thence

North 2,117 feet to the mean high water line of a small promontory extending into Lake Louise;

Southeasterly along said high water line to the east end of the aforementioned promontory;

Southwesterly along the mean high water line to the point of beginning.

The tract described contains 29.50 acres.

The use of the tract by the Department of the Army shall be subject to the following conditions:

(1) The Department of the Army shall not interfere with public use of the Lake Louise area, including access roads, but excluding the area withdrawn by this order.

(2) No hunting by military personnel shall be allowed by the Department of the Army within the withdrawn area, nor will hunting be permitted on adjacent lands in connection with military training or during training periods.

FRED G. AANDAHL,

Acting Secretary of the Interior.

OCTOBER 28, 1955.

[F. R. Doc. 55-8856; Filed, Nov. 2, 1955;
8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 927]

[Docket No. AO-71-A30]

HANDLING OF MILK IN THE NEW YORK METROPOLITAN MILK MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT, AND TO THE ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing, on the record of which the findings and conclusions hereinafter set forth were formulated, was conducted at Albany, New York, on September 13, 1955, pursuant to notice thereof issued on August 24, 1955, and published in the FEDERAL REGISTER on August 27, 1955 (20 F. R. 6303).

The material issues of record are concerned with:

1. The classification of milk received at plants in the marketing area directly from farms on bulk tank pickup routes; and

2. The application of location differentials to milk on bulk tank pickup routes.

Findings and conclusions. The findings and conclusions hereinafter set forth are based upon the evidence in the record of the hearing.

Functions. such as the weighing, sampling and testing of producers' milk which take place at a plant when milk is received from producers in cans, are performed by the trucker at the farm when milk is transferred in bulk directly from a farm tank to a tank truck. The proposals considered at this hearing are concerned with specific and immediate problems relative to the classification and pricing of milk received from producers on such bulk tank pickup routes pending the consideration of more comprehensive proposals for classifying and pricing such milk. The amendments set forth herein, therefore, are not expected to provide long run solutions to the problems involved.

Issue No. 1. It is concluded that the order should be amended to provide that milk received at a plant in the marketing area directly from producers by tank truck shall be assigned to Class I-A prior to the assignment to Class I-A of milk from other plants.

Under existing provisions of the order, milk received at a plant in the marketing area directly from producers whether in cans or by tank truck is classified at the plant where received in the marketing area. Accordingly, all or a portion of the milk thus received directly from producers at a plant in the marketing area may be classified in classes other than I-A depending upon the quantity of milk classified in such other classes at the plants in the marketing area. On the other hand, if milk is received from producers at a plant outside the marketing area and then shipped as fluid milk to a plant in the marketing area, all of such milk received at the marketing area plant is classified in Class I-A. An advantage thus accrues to an operator of a plant in the marketing area who receives milk by tank truck directly from producers in comparison with another handler whose entire supply of

fluid milk is shipped from a plant outside the marketing area. The existence of this advantage constitutes an incentive for the substitution of milk directly from producers by tank truck for milk now received from country plants and constitutes a means of reducing the quantity of milk classified in Class I-A and a consequent reduction in over-all returns to producers.

Only a relatively small volume of milk is at present being received at plants in the marketing area by tank truck directly from producers. During the month of June 1955 milk was received from only 115 producers directly by tank truck at plants in the marketing area. The volume of milk thus received was approximately 4.8 million pounds. During the same month the total quantity of pool milk was 854.6 million pounds and was received from a total of 50,175 producers. The number of producers from which milk was received directly by tank truck at plants in the marketing area increased each month during the first half of 1955, the increase being from 57 in January to 118 in July. Approximately 50 additional producers deliver by tank truck directly to plants located other than in the marketing area or in the location differential area.

Representatives of handlers and producers who testified at the hearing expressed the view that a much more rapid expansion in the volume of milk received by tank truck directly from producers would probably occur under existing provisions of the order. It was proposed at the hearing that all milk received at marketing area plants by tank truck directly from producers be classified as Class I-A on the basis that the proposal contained in the hearing notice, providing for the prior assignment of such milk in Class I-A, did not go far enough in that an opportunity would remain under certain circumstances for the classification of such milk in lower priced classes. It was not demonstrated, however, that such circumstances currently prevailed or that they are in prospect to an extent sufficient to detract materially from the effectiveness of the prior assignment amendment.

Issue No. 2. It is concluded that the order should be amended to provide for the payment of the 20 or 30-cent location differentials on milk shipped directly from the farm to a plant by tank truck only under the following circumstances:

(1) If such milk is delivered from a farm from which milk was delivered to a pool plant in the month of August 1955, the rate of the location differential should be no higher than the rate applicable to milk delivered from the same farm during the month of August 1955; and

(2) If such milk is delivered by a producer from a farm from which no milk was delivered to a pool plant in August 1955, the location differential payable on such milk should be at the rate of 20 cents if the farm (milk house) from which delivery is made is located in one of the counties in the location differential area and at the rate of 30 cents if delivery is made from a farm located in the marketing area.

This amendment is designed to prevent any significant increase in the number of producers qualifying for the 20 or 30-cent location differentials on milk shipped directly from the farm to a plant by tank truck. Under present order provisions a location differential of 20 cents per hundredweight is payable to producers for milk delivered to plants located at certain specified locations or within the boundaries of specified counties, and a location differential of 30 cents is payable to producers delivering milk directly to plants located within the marketing area. Such differential payments to producers are deducted out of the pool, and handlers are required to pay an additional 5 cents per hundredweight for such location differential milk.

Historically, these location differentials have applied to milk received from producers whose farms are located in or closely surrounding the marketing area or the defined nearby location differential territory. Virtually all of the producers now delivering milk by tank truck directly to plants in the marketing area either formerly delivered in cans to location differential plants or operate farms located in the location differential area. The bulk tank pickup method of delivery, however, makes it possible for producers, irrespective of their farm location, to become eligible for location differentials under existing provisions of the order. Such a development would not only appear to be contrary to the intent and purpose of the location differential provision but would have the effect of reducing the uniform price to all other producers.

Representatives of producers and handlers testified at the hearing that the present location differential provisions as they apply to bulk tank milk constitute an unwarranted and unjustified incentive for the expansion of bulk tank pickup routes, and that the incentive should be eliminated before significant investments are made by producers and handlers in bulk tank operations in anticipation of location differentials out of the pool. Various proposals were made at the hearing for restricting the payment of location differentials on bulk tank milk. The proposed amendment herein set forth is designed to accomplish the primary purpose of all such proposals, and at the same time avoid the administrative problems involved in ascertaining the delivery practice of individual producers over extended periods. The month of August 1955 is the latest month during which delivery practices could not have been influenced by the calling of this hearing, and appears to constitute a reasonable and practicable time after which producers located outside the location differential area cannot qualify for location differentials on milk delivered directly by tank truck to location differential plants.

General findings. (a) The tentative marketing agreement and the order, as amended and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act

are not reasonable in view of the price of feeds available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and in the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The tentative marketing agreement and the order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

Rulings. Briefs were filed on behalf of interested persons. The briefs contained suggested findings of facts, conclusions, and arguments with respect to the proposals considered at the hearing. Every point covered in the briefs was carefully examined along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the suggested findings and conclusions are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied.

Recommended marketing agreement and amendment to the order, as amended. The following amendment to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order, as amended, and as hereby proposed to be further amended.

1. Amend § 927.35 (a) by adding the following proviso: "Provided, That at a plant in the marketing area milk received directly from producers by tank truck shall be assigned to Class I-A prior to the assignment of milk from other plants to Class I-A."

2. Amend § 927.60 (f) by adding the following: "Provided, That with respect to milk received by tank truck directly from a farm from which milk was delivered to a pool plant in August 1955, such deduction shall be at a rate no higher than the rate applicable to milk delivered from the same farm in the month of August 1955, or if the milk received directly by tank truck is from a farm from which no milk was delivered to a pool plant in August 1955, such deduction shall be at the rate of 20 cents per hundredweight if the milk house of such farm is located in one of the counties listed in this paragraph, and at the rate of 30 cents per hundredweight if the milk house of such farm is located in the marketing area: And provided further, That for purposes of this para-

graph the producer operating a farm shall be considered to have been the producer in August 1955 if the market administrator determines that milk from such farm was delivered to a pool plant in August 1955 regardless of any change in farm operator after that date."

Issued at Washington, D. C., this 31st day October 1955.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 55-8883; Filed, Nov. 2, 1955;
8:52 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

NOTICE OF REFILE OF PETITIONS FOR ESTABLISHMENT OF TOLERANCES FOR RESIDUES OF ALDRIN AND DIELDRIN

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been refiled by Shell Chemical Corporation, 460 Park Avenue, New York, New York, proposing the establishment of a tolerance of 0.1 part per million for residues of aldrin in or on the following raw agricultural commodities: Apples, pears, and quinces; cherries; cranberries; grapes; peaches; nectarines, apricots, mangoes; pineapples; plums and prunes; strawberries; asparagus; celery; collards, kale, mustard greens, spinach, Swiss chard; corn, grain (including sweet, field, and popcorn); eggplant, peppers, and pimentos; endive (escarole), lettuce, and salsify; melons (including cantaloups, muskmelons, watermelons), pumpkins, winter squash; peas and cowpeas (including forage), tomatoes, grains (including oats, rye, barley, wheat, rice, and sorghum); grain forage; a tolerance of 0.25 part per million for residues of aldrin in or on the following raw agricultural commodities: Citrus fruits (including grapefruit, lemons, oranges, and tangerines); beans (including black-eyed peas and soybeans); beets (garden variety), turnips, and rutabagas (including tops); beets, sugar (including tops); broccoli, brussels sprouts, kohlrabi; cabbage and cauliflower; carrots, horseradish, parsnips, and radishes (including tops); cucumbers and summer squash; onions (including leeks, shallots, and garlic); peanuts; and a tolerance of 0.75 part per million for residues of aldrin in or on the following raw agricultural commodities: Corn, fodder, or forage; legumes for forage (including clovers, alfalfa, soybean hay, peanut hay, lespedeza); grass crops (pasture and range grass, timothy, grass hay).

A petition has been refiled by Shell Chemical Corporation, 460 Park Avenue, New York, New York, proposing the establishment of a tolerance of 0.1 part per million for residues of dieldrin in or on the following raw agricultural commodities: Cranberries; grapes; pineapples; plums and prunes; strawberries; corn, grain (including sweet, field, and popcorn); corn, fodder or forage; cucumbers and summer squash; eggplant, peppers, and pimentos; lettuce, endive (escarole), and salsify; peas and cowpeas (including forage); potatoes and sweetpotatoes; tomatoes; grains (including oats, rye, barley, wheat, rice, and sorghums); grain forage; legumes for forage (including clovers, alfalfa, soybean hay, peanut hay, lespedeza); and a tolerance of 0.25 part per million for residues of dieldrin in or on the following raw agricultural commodities: Citrus fruits; mangoes; asparagus; beans (including black-eyed peas and soybeans); beets (garden variety); turnips and rutabagas (including tops); broccoli, brussels sprouts, kohlrabi; cabbage and cauliflower; carrots, horseradish, parsnips, and radishes (including tops); celery; collards, kale, mustard greens, spinach, and Swiss chard; melons (including cantaloups, muskmelons, watermelons), pumpkins, winter squash.

The petition proposes that § 120.101 *Specific tolerances for pesticide residues in or on fresh fruits and vegetables*, published in the FEDERAL REGISTER of March 11, 1955 (20 F. R. 1501) be amended by raising the tolerance for dieldrin in or on apples, pears, quinces, cherries, peaches, nectarines, and apricots from 0.1 part per million to 0.25 part per million.

Analytical methods proposed for determining residues of aldrin and dieldrin were cited in the notice of original filings published in the FEDERAL REGISTER April 15, 1955 (20 F. R. 2485).

Dated: October 28, 1955.

[SEAL] JOHN L. HARVEY,
Acting Commissioner
of Food and Drugs.

[F. R. Doc. 55-8880; Filed, Nov. 2, 1955;
8:51 a. m.]

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCE FOR RESIDUES OF CHLORTETRACYCLINE

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been filed by American Cyanamid Company, 30 Rockefeller Plaza, New York, New York, proposing the establishment of a tolerance of 23

parts per million for residues of chlortetracycline in or on dressed poultry (not cooked).

The analytical method proposed in the petition for determining residues of chlortetracycline is the method published in Antibiotics Annual 1953-1954, page 409, Medical Encyclopedia, New York, New York.

Dated: October 28, 1955.

[SEAL] JOHN L. HARVEY,
Acting Commissioner of
Food and Drugs.

[F. R. Doc. 55-8881; Filed, Nov. 2, 1955;
8:51 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

REVISED UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIER

NOTICE OF POSTPONEMENT OF ORAL ARGUMENT ON PROPOSED RULE

Notice is hereby given that oral argument, before the Board, in the above-entitled rule-making proceeding is postponed from November 7, 1955, to November 9, 1955, at 10:00 a. m., e. s. t., in Room 5042, Department of Commerce Building, Washington, D. C.

NOTE: By notice (Economic Regs. Draft Release No. 68E) published October 21, 1955 (20 F. R. 7944) the Board gave Notice of Oral Argument on Proposed Rule Making (14 CFR Part 241) published September 22, 1955 (20 F. R. 7111) (Economic Regs. Draft Release No. 68D).

Dated at Washington, D. C., November 1, 1955.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 55-8930; Filed, Nov. 2, 1955;
8:56 a. m.]

FEDERAL POWER COMMISSION

[18 CFR Part 11]

[Docket No. R-129]

ANNUAL CHARGES PRESCRIBED FOR LICENSEES

NOTICE OF RESUMPTION OF HEARING

OCTOBER 27, 1955.

In the matter of amendment to Part 11 of Subchapter B of the Rules Relating to Annual Charges Prescribed for Licensees under the Provisions of the Federal Power Act.

Notice is hereby given that the hearings in the above-designated matter, have been postponed and recessed from time to time, are now scheduled to resume 10:00 a. m., e. s. t., November 30, 1955, in the Commission's hearing room, 441 G Street NW., Washington, D. C.

[SEAL] J. H. GUTHRIE,
Acting Secretary.

[F. R. Doc. 55-8862; Filed, Nov. 2, 1955;
8:47 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 53934]

CAST IRON SOIL PIPE FROM UNITED KINGDOM

ANTIDUMPING

OCTOBER 27, 1955.

After due investigation, in accordance with the provisions of section 201 (a) of the Antidumping Act of 1921, as amended (19 U. S. C. 160 (a)), the United States Tariff Commission on October 26, 1955, notified the Secretary of the Treasury of its determination that the industry manufacturing cast iron soil pipe in the United States is being, or is likely to be injured, by reason of the importation into the United States of cast iron soil pipe, other than "American pattern" cast iron soil pipe, from the United Kingdom.

Pursuant to the provisions of said section 201 (a) of the Antidumping Act of 1921, as amended, I find that cast iron soil pipe, other than "American pattern" cast iron soil pipe, from the United Kingdom is being, or is likely to be, sold in the United States at less than its fair value.

[SEAL]

DAVID W. KENDALL,
Acting Secretary of the Treasury.[F. R. Doc. 55-8889; Filed, Nov. 2, 1955;
8:53 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

NOTICE OF FILING OF PLAT OF SURVEY AND ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

OCTOBER 27, 1955.

A plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10:00 a. m. on December 2, 1955.

SEWARD MERIDIAN

Township 15 North, Range 1 West, Sections 11, 14, 15, 21, and 22 comprising 3,200 acres.

The land involved lies approximately seventeen miles northeast of Anchorage and is bisected from the SW corner to the NE corner by the Glenn Highway. The bulk of the land lying east of the highway forms the foothills of the Chugach Mountains and is steep and rocky with spruce and birch trees forming the primary vegetative cover. The general aspect of the land west of the Glenn Highway is more level being featured by glacial moraine and outwash deposits. The soil is generally shallow and rather sandy in texture with the exception of occasional areas of muskeg. The primary vegetative cover is of second growth spruce and birch. Only a small percentage of the land appears suitable for agricultural use.

No. 215—1

Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 2 hereof, are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead (Alaska Homestead), and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on November 18, 1955, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on December 2, 1955, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a. m. on March 3, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a. m. on March 3, 1956.

Persons claiming veteran's preference rights under Paragraph a (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Applications for these lands, which shall be filed in the Land Office at Anchorage, Alaska, shall be acted upon in accordance with the regulations con-

tained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent such regulations are applicable. Applications under the homestead and homesite laws shall be governed by the regulations contained in Parts 64, 65 and 166 of Title 43 of the Code of Federal Regulations and applications under the small tract act of June 1, 1938, shall be governed by the regulations contained in Part 257 of that title.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, P. O. Box 1740, Anchorage, Alaska.

WALTER E. BECK,
Acting Manager.[F. R. Doc. 55-8858; Filed, Nov. 2, 1955;
8:45 a. m.]

ALASKA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

OCTOBER 27, 1955.

Alaska Road Commission has filed an application, Serial No. Anchorage 020553, for the withdrawal of lands described below, from all forms of appropriation including the mining and mineral leasing laws. The applicant desires the land for permanent maintenance site for the maintenance of the Glenn Highway.

For a period of 60 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Box 480, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SEWARD MERIDIAN

T. 20 N., R. 8 E.,
Section 28: SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ (exclusive of the right-of-way of the Glenn Highway).

Containing approximately 45.1 acres.

HAROLD T. JORGENSEN,
Acting Area Administrator.[F. R. Doc. 55-8859; Filed, Nov. 2, 1955;
8:46 a. m.]

WYOMING

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The Bureau of Reclamation, Department of the Interior has filed an application, Serial No. Misc. 65598, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws including the United

States mining laws but not including the mineral leasing laws.

The applicant desires the land for use in connection with the development of the Glendo Unit, Missouri River Basin Project in Wyoming.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Post Office Box 929, Cheyenne, Wyoming.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN

WYOMING

T. 30 N., R. 67 W.,
Sec. 18: SW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 29 N., R. 68 W.,
Sec. 24: N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 30 N., R. 68 W.,
Sec. 8: NE $\frac{1}{4}$ SW $\frac{1}{4}$.

JOSEPH C. CONRACE,
Acting State Supervisor.

[F. R. Doc. 55-8860; Filed, Nov. 2, 1955;
8:46 a. m.]

NEVADA

SMALL TRACT CLASSIFICATION ORDER NO. 95, AMENDED

OCTOBER 21, 1955.

Pursuant to the authority delegated to me by the Area Administrator, Area II, Bureau of Land Management, by Order No. 4, dated May 5, 1954, I hereby revoke Small Tract Classification Order No. 95 as to the following lands:

T. 20 S., R. 60 E., M. D. M., Nevada:
Sec. 25, SE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 21 S., R. 61 E., M. D. M., Nevada:
Sec. 36, W $\frac{1}{2}$ SW $\frac{1}{4}$.

A. L. SIMPSON,
Acting State Supervisor.

[F. R. Doc. 55-8857; Filed, Nov. 2, 1955;
8:45 a. m.]

Bureau of Reclamation

DIXON PROJECT ON LITTLE SNAKE RIVER, COLORADO

ORDER OF REVOCATION

DECEMBER 17, 1954.

Pursuant to authority delegated by Department Order No. 2765 of July 30, 1954, I hereby revoke Departmental Order of March 5, 1937, insofar as said order affects the following described lands; provided, however, that such revocation shall not affect the withdrawal of any other lands by said order or affect any other orders withdrawing or reversing the lands hereinafter described:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 9 N., R. 96 W.,
Sec. 3, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The above areas aggregate 200.00 acres.

FLOYD E. DOMINY,
Acting Assistant Commissioner.

[Misc. 66686]

OCTOBER 28, 1955.

I concur. The records of the Bureau of Land Management will be noted accordingly.

The land is chiefly rolling to mountainous grazing lands. Vegetative cover consists primarily of sagebrush and grass, with small areas of pinon-juniper in the more mountainous sections. Soils vary from sandy clay to gravelly clay formations.

No application for the lands may be allowed under the homestead, desert-land, small tract, or any other non-mineral public land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

Subject to any existing valid rights and the requirements of applicable law, the lands described are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. The lands have been open to offers under the mineral-leasing laws. Applications and selections under the non-mineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284

as amended), presented prior to 10:00 a. m. on December 3, 1955, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on March 3, 1956, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on March 3, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a. m., on March 3, 1956.

Persons claiming veteran's preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colorado.

EARL G. HARRINGTON,
Acting Director,
Bureau of Land Management.

[F. R. Doc. 55-8861; Filed, Nov. 2, 1955;
8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-9553]

H. L. HUNT

ORDER SUSPENDING PROPOSED CHANGES IN RATES

H. L. Hunt (Applicant) on September 30, 1955, tendered for filing proposed changes in presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filing which is proposed to become effective on the date shown:

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept. 29, 1955.	Texas Eastern Transmission Corp.	Supplement No. 6 to Applicant's FPC Gas Rate Schedule No. 7.	Nov. 1, 1955

¹ The stated effective date is the first day after expiration of the required 30 days' notice, or the effective date proposed by Applicant if later.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions

of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural

Gas Act and the Commission's general rules and regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Adopted: October 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8866; Filed, Nov. 2, 1955;
8:47 a. m.]

[Docket No. G-6817]

E. C. SCURLOCK

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 28, 1955.

Take notice that E. C. Scurlock (Applicant), whose address is Bankers Mortgage Building, Houston 2, Texas, filed on December 2, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant produces natural gas from the North Faddin Gas Field, Victoria County, Texas, and sells it in interstate commerce to the United Gas Pipe Line Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 29, 1955, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8863; Filed, Nov. 2, 1955;
8:47 a. m.]

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change (undated)...	Texas Eastern Transmission Corp.	Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 4.	Nov. 1, 1955

¹ The stated effective date is the first day after expiration of the required 30 days' notice, or the effective date proposed by Applicant, if later.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept. 29, 1955.	Texas Eastern Transmission Corp.	Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 1.	Nov. 1, 1955

¹ The stated effective date is the first day after expiration of the required 30 days' notice, or the effective date proposed by Applicant, if later.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest, and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

[Docket No. G-9554]

HASSIE HUNT TRUST

ORDER SUSPENDING PROPOSED CHANGES IN RATES

Hassie Hunt Trust (Applicant), on September 30, 1955, tendered for filing proposed changes in presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filing which is proposed to become effective on the date shown:

(B) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Adopted: October 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8867; Filed, Nov. 2, 1955;
8:48 a. m.]

[Docket No. G-9555]

C. L. MAILLOT ET AL.

ORDER SUSPENDING PROPOSED CHANGES IN RATES

C. L. Maillot, et al. (Applicant), on September 30, 1955, tendered for filing proposed changes in presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filing which is proposed to become effective on the date shown:

The Commission orders: (A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further

time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Adopted: October 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8868; Filed, Nov. 2, 1955;
8:48 a. m.]

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept. 28, 1955.	Hassie Hunt Trust.....	Supplement No. 4 to Applicant's FPC Gas Rate Schedule No. 2.	Nov. 1, 1955

¹ The stated effective date is the first day after expiration of the required 30 days' notice, or the effective date proposed by Applicant if later.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until April 1, 1956, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

Description	Purchaser	Rate schedule designation	Effective date ¹
Notice of change, dated Sept. 26, 1955. Do.....	Texas Eastern Transmission Corp. do.....	Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 35. Supplement No. 4 to Applicant's FPC Gas Rate Schedule No. 36.	Nov. 1, 1955 Do.

¹ The stated effective date is the first day after expiration of the required 30 days' notice, or the effective date proposed by Applicant, if later.

The increased rates and charges proposed in the aforesaid filings have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest, and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-

[Docket No. G-9556]

HOLLYFIELD AND MCFARLANE

ORDER SUSPENDING PROPOSED CHANGES IN RATES

Hollyfield and McFarlane (Applicant), on September 30, 1955, tendered for filing proposed changes in presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filing which is proposed to become effective on the date shown:

(B) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Adopted: October 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8869; Filed, Nov. 2, 1955;
8:48 a. m.]

[Docket No. G-9557]

SUN OIL CO.

ORDER SUSPENDING PROPOSED CHANGES IN RATES

Sun Oil Company (Applicant), on September 30, 1955, tendered for filing proposed changes in presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings which are proposed to become effective on the dates shown:

designated supplements be suspended and the use thereof deferred as herein-after ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's General Rules and Regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges; and, pending such hearing and decision

thereon, the above-designated supplements be and the same hereby are suspended and the use thereof deferred until April 1, 1956, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Adopted: October 21, 1955.

Issued: October 28, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8870; Filed, Nov. 2, 1955;
8:48 a. m.]

[Docket No. G-6618]

HOWARD JENKINS, TRUSTEE

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 28, 1955.

Take notice that Howard Jenkins, Trustee (Applicant), an individual whose address is Paintsville, Kentucky, filed on November 30, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as herein-after described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant produces natural gas from the Licking River Gas Field, Magoffin County, Kentucky, and sells it in interstate commerce to the Kentucky-West Virginia Gas Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 28, 1955, at 9:50 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 1955. Failure of any party to

appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8864; Filed, Nov. 2, 1955;
8:47 a. m.]

[Docket No. G-9312]

ATLANTIC REFINING CO.

NOTICE OF APPLICATION AND DATE OF HEARING

OCTOBER 28, 1955.

Take notice that The Atlantic Refining Company (Applicant), a Pennsylvania corporation whose address is P. O. Box 2819, Dallas 1, Texas, filed on September 9, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas (casinghead), from production in Lea Field, Crane County, Texas, to Gulf Oil Corporation for resale in interstate commerce.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Monday, December 5, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 14, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8865; Filed, Nov. 2, 1955;
8:47 a. m.]

[Docket No. G-4331, etc.]

UNION OIL COMPANY OF CALIFORNIA ET AL.
ORDER POSTPONING ACTION ON MOTION TO
DISMISS AND REFERRING PROCEEDINGS TO
EXAMINER

In the matter of Union Oil Company of California, Docket No. G-4331; Union Oil Company of California, and Louisiana Land and Exploration Company, Docket No. G-4332; Morris Rauch, et al., Docket No. G-4334; Bel Oil Corporation, Docket No. G-4505.

These matters are before the Commission upon the presiding examiner's certification of the motion made upon the record by counsel for the Public Service Commission of New York to dismiss the applications filed under the Natural Gas Act by the above-designated applicants for proposed increases in rates. The motion to dismiss was joined in by several party interveners and counsel for the staff of the Commission.

In brief, the motion, which was made at the close of complete cases-in-chief of the four applicants, requests that the Commission dismiss the applications on the ground that the applicants have not discharged the burden of proof imposed by section 4 (e) of the act to show that the proposed rates are just and reasonable. Section 4 (e) expressly provides:

At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the natural-gas company * * *.

On September 30, 1954, Union Oil Company of California (Union) tendered for filing with the Commission notices of proposed increases in its rates and charges which were designated Union's FPC Gas Rate Schedule No. 2 and Supplements Nos. 1, 2 and 3 thereto, FPC Gas Rate Schedule No. 3 and Supplement No. 1 thereto, and FPC Gas Rate Schedule No. 4 and Supplement No. 1 thereto. By order issued October 29, 1954, in Docket No. G-4331, the Commission suspended these proposed increases in rates and charges.

On September 30, 1954, Union Oil Company of California and Louisiana Land and Exploration Company (Union and Louisiana) tendered for filing with the Commission notices of proposed increases in their rates and charges which were designated Union et al.'s FPC Gas Rate Schedule No. 5 and Supplements Nos. 1 and 2 thereto, and FPC Gas Rate Schedule No. 6 and Supplements Nos. 1 and 2 thereto. By order issued October 29, 1954, in Docket No. G-4332, the Commission suspended these proposed increases in rates and charges.

On September 30, 1954, Morris Rauch, Johnny Mitchell, Trustee, W. H. Zinn, Louis Pulaski, E. J. Pulaski and Rheba Jean Spiner, Executor and Executrix of Estate of Harry Pulaski (Morris Rauch et al.) tendered for filing with the Commission notices of proposed increases in rates and charges which were designated Supplement No. 1 and Supplement No. 1 to Supplement No. 1 to Morris Rauch et al.'s FPC Gas Rate Schedule No. 1. By order issued October 29, 1954, in Docket No. G-4334, the Commission suspended these proposed increases.

On October 4, 1954, Bel Oil Corporation (Bel Oil) tendered for filing with the Commission notices of proposed increases in rates and charges which were designated Supplement No. 1 to Bel Oil's FPC Gas Rate Schedule No. 3. By order issued November 4, 1954, in Docket No. G-4505, the Commission suspended these proposed increases in rates and charges.

All of the aforesaid rate suspension proceedings involve notices to increase rates and charges relative to sales and deliveries of natural gas to Transcontinental Gas Pipe Line Corporation (Transco) from gas fields in southern Louisiana. These sales are made from wells and other facilities of the applicants and the deliveries are made to Transco, which is a natural gas company as defined in the Natural Gas Act, and which further transports the gas across State lines in interstate commerce.

All of the aforesaid suspension proceedings were consolidated for purposes of hearing and hearings were held in September 1955. United Gas Improvement Company, Public Service Electric and Gas Company, Philadelphia Electric Company, South Jersey Gas Company, Consolidated Edison Company of New York, Kings County Lighting Company, The Brooklyn Union Gas Company, Elizabeth Consolidated Gas Company, and Long Island Lighting, Transco, and the Public Service Commission of the State of New York intervened in the consolidated proceedings and participated in the hearings.

At the hearing documentary evidence and oral testimony was presented by the applicants in support of the proposed increases. When the applicants had concluded their direct presentation, the Public Service Commission of New York moved to dismiss the applications and to terminate the proceedings for failure of the applicants to show that the increased rates and charges are just and reasonable. United Gas Improvement Company, Philadelphia Electric Company, Public Service Electric and Gas Company, Consolidated Edison Company of New York, Kings County Lighting Company, Long Island Lighting Company, The Brooklyn Union Gas Company, and the Commission Staff joined in the motion to dismiss.

Applicants have directed their presentation in support of their rate applications to facts showing that a contract was made on May 4, 1948, by Union and Louisiana Land and Exploration Company with Transco for a term of 20 years for the sale and delivery of natural gas from fields in Louisiana. The initial daily quantity specified was 50,000 Mcf as the minimum quantity and 60,000 Mcf as the maximum quantity, at a price of 8½ cents per Mcf at a pressure base of 16.7 p. s. i. a. for the first five years after the commencement of deliveries and a periodic escalation of the price was provided in steps of 1 cent per Mcf increase for the succeeding 5-year periods. In addition to such escalation provisions, the so-called favored nation provisions were included under the terms of which Transco was obligated to increase its payments for gas delivered to an amount equal to any greater amount paid by

Transco in a designated pricing area, and likewise Transco was obligated to increase its payments for gas delivered to an amount equal to any greater amount paid by any purchaser to any seller of gas within a designated pricing area. Also, the contract contained a bona fide offer provision which required that Transco meet any bona fide offer at an increased price for gas sold under the basic agreement.

The evidence also showed that, due to various amendments to the sales contract of May 4, 1948, the price for gas delivered at the commencement of deliveries was 9.79715 cents per Mcf and the quantity was increased to 65,000 Mcf as the minimum and 87,000 Mcf as the maximum. Other amendments were made in reference to the sales and deliveries of gas so that for gas delivered after November 1, 1954, and until November 1, 1959, the price was changed to 16 cents per Mcf, with 1 cent per Mcf periodic escalation in succeeding 5-year periods and quantity specifications were changed to be 94,000 Mcf per day for minimum deliveries and 125,000 Mcf per day for maximum takes of gas. This change for sales and deliveries after November 1, 1954, also eliminated the favored-nation escalation whereby prices were to have been increased if any purchaser paid any greater amount to any seller, and the change for sales and deliveries after November 1, 1954, provided for an escalation in price only if Transco paid a higher price to any other seller of gas.

Union, Union and Louisiana, and Bel Oil supported their rate increase applications by advertising to the fact that the basic sales contracts provided for automatic increases on November 1, 1954. Morris Rauch et al., relied upon the favored-nation escalation provision.

The evidence on behalf of all the applicants tended to show that the contracts hereinbefore described for sales and deliveries of gas were arrived at after arm's-length negotiations and were entered into by the parties in good faith.

Union, to substantiate its claim that the rate increase sought is justified, presented exhibits (Exhibits Nos. 2 and 3) based upon a study of producer contracts on file with the Commission. Such "office study" of current price levels for natural gas in southern Louisiana, submitted here as a numerical study of contract price levels, comprised a compilation of 138 contracts which satisfied three criteria: (a) That they were contracts of independent producers located in the pricing area here involved, (b) that the original contract was entered into during the period January 1, 1952, to April 30, 1955, and (c) that the contract was for more than five years. In the tabulation of the prices of the selected 138 contracts evidence presented by Union purported to show that the prices are in accordance with the provisions of the contracts, whether or not any of the contracts were suspended by the Commission. The witness who prepared the exhibits reflecting the statistics relative to the 138 contracts stated that twelve interstate pipeline natural gas companies including the applicants

have entered into 84 contracts for the purchase of natural gas prior to November 1, 1954, at a price of 17 cents per Mcf or more. Such contracts were stated to be for sales and deliveries of gas in the pricing area specified in the Transco contracts with Union here concerned. The witness also stated that a price range of from 17 cents to 18 cents was "the most popular price, statistically speaking."

In the case of each of these 138 contracts the price shown is the total price paid by the buyer, including the current Louisiana gathering tax, plus any dehydration, gathering or special charges which buyer is obligated to pay. These contracts were selected by Union and adduced in evidence as comparable to the contracts involved in this proceeding, the other applicants here adopting the same view as Union in support of their claims for the increases sought.

The applicants here attempt to support their proposed increases on the grounds that they resulted from renegotiation of a contract between nonaffiliates at arm's length and claim that the new contract price did not then and does not now exceed the reasonable market price or current field price for the sale of natural gas in the pricing area. But the evidence which they have submitted in support of these contentions does not convince us that the proposed increased rate is just and reasonable.

The contract with Transco upon which applicants rely is subject to modification as to rates because the applicants are subject to the Natural Gas Act. The fact that contracts have been entered into in good faith and in arm's-length bargaining does not make them immune from the regulation in the public interest prescribed by Congress, nor are producer contract terms per se an indication that the prices agreed upon are just and reasonable either initially or as subsequently increased pursuant to escalation clauses or otherwise. (See *Colorado Interstate Gas Co. v. F. P. C.*, 142 F. 2d 943, 953 (C. A. 10, 1944), aff. 342 U. S. 581; *Mississippi River Fuel Corp. v. F. P. C.*, 122 F. 2d 159, 163 (C. A. 8, 1941).)

The exhibit submitted by applicants to show relative field prices is merely a numerical listing of contract prices for gas sold within the pricing area and is insufficient to justify the proposed increases.

It may be observed that in providing for Commission responsibility in connection with rate filings the Natural Gas Act makes no distinction between independent producers and interstate pipeline companies. If they are subject to the act, the same criteria and procedures are prescribed for rate-fixing purposes, since both classes are natural gas companies under the act. The Commission is free, within the ambit of its statutory authority in rate fixing, to make the pragmatic adjustments which may be called for by particular circumstances (*F. P. C. v. Natural Gas Pipeline Co.*, 315 U. S. 575, 586). While it is true that the source of our authority over rates of independent producers is contained in sections (4) and (5) of the Natural Gas Act, we do not say that in fixing the

rates of natural gas companies which are independent producers we are compelled to apply the same formula as that applied in fixing the rates of natural gas companies which are interstate pipeline companies.

In dealing with the rates of interstate pipeline companies, we have pointed to the burden placed by section 4 (e) of the act upon those natural gas companies seeking approval for rate increases and in appropriate cases have pointed to the failure of some companies to present evidence which would justify the increases, for which reason we have denied applications for approval, and in these actions we have judicial approval. (*Mississippi River Fuel Corp. v. F. P. C.*, 121 F. 2d 159, 165 (C. A. 8, 1941).) The independent producers which are applicants herein are under the same burden as interstate pipeline companies to justify any proposed rate increases, even if their operations may differ.

Upon consideration of all of these matters and the evidence so far presented, we would be required to grant the motion to dismiss and to terminate these proceedings, for the evidence does not show that the requested increased rates would be just and reasonable. Nevertheless, solely because this is the first series of cases involving the rates of independent producers upon which we have acted, we will allow Applicants a further period of time beyond which we do not propose to extend the resumption of the hearing, rather than granting the motion to dismiss forthwith. If when the hearing is resumed the Applicants avail themselves of the opportunity to present more substantial evidence that their proposed increases are just and reasonable, the evidence should be considered.

Since we are not acquainted with the facts upon which the Applicants rely to justify the increases, further than as shown by this record, we do not suggest what additional evidence should be offered. Obviously, the Applicants should be permitted to present any relevant and proper evidence which would tend to support their applications. At the same time, we must point out that rather extended opportunity to prepare relevant and proper evidence bearing upon the lawfulness of rates and charges has been afforded all independent producers whose rates are subject to the Natural Gas Act. Last November, in Docket No. R-142, we requested suggestions from the natural gas industry and any other interested groups as to the formula or principles to be followed in fixing rates of independent producers who are natural-gas companies under the act. Many briefs and proposals were filed by producers, pipeline companies, distribution companies, State Commissions, industry organizations, land and royalty owners' associations and others. We heard oral argument on three days last January by many of those who had submitted briefs and by our own Staff, but, after considering all of the suggestions, decided to wait for specific cases to be presented with concrete facts before reaching any decision on the matter.

In addition to this general presentation, our staff, pursuant to our instruc-

tions, held conferences last July with many of the producers, including representatives of these applicants, and discussed possible types of evidence which might show that particular rates of producers are just and reasonable. With these prior opportunities to explore this field, and with the plain obligation placed upon them by the act, the Applicants should now be fully prepared to demonstrate the lawfulness of the proposed increases or we must deny the applications and dismiss the proceedings. Reasonable consideration of the rights of the other parties and of the general public will justify no further delays.

In order properly to consider the motion to dismiss, we have had the Examiner certify the record to us for examination. It will be returned to him for further proceedings in accordance with our views as expressed herein.

The Commission orders: Action on the pending motion to dismiss is hereby postponed and the above proceedings are hereby reopened and returned to the Examiner with instructions to reconvene the hearing on November 28, 1955, without further postponement of Applicants' case-in-chief and for further proceedings in conformity with this order.

Adopted: October 21, 1955.

Issued: October 24, 1955.

By the Commission.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8871; Filed, Nov. 2, 1955;
8:49 a. m.]

[Docket No. G-5510]

FOREST OIL CORP.

ORDER ON APPEAL OF MOTION TO DISMISS

This proceeding was initiated by an order issued December 7, 1954, pursuant to section 4 (e) of the Natural Gas Act, suspending proposed increased rates and charges of Forest Oil Corporation (Applicant) for the sale of natural gas to Transcontinental Gas Pipe Line Corporation (Transco), the order also setting hearing on the proposed increased rates.

It comes before the Commission at this time upon a motion by counsel for the staff of the Commission to dismiss the application on the ground that the Applicant has not discharged the burden of proof imposed by section 4 (e) of the act to show that the proposed rates are just and reasonable and that the evidence is insufficient for the Commission to make a finding as to just and reasonable rates. The interveners present at the hearing joined in the motion to dismiss, but the presiding examiner refused to certify the motion to the Commission, holding it to be out of order, and staff counsel thereupon perfected an appeal, bringing it before the Commission.

Applicant is an oil producer having its principal place of business in Houston, Texas. It owns an interest in natural-gas-producing acreage in the North Egan Field at Acadia Parish, Louisiana, and is the operator of its own Adres Pousson

well located upon the acreage. On August 24, 1954, Applicant entered into a contract with Transco under the terms of which Applicant sells natural gas to the pipeline company for sale in interstate commerce for resale for ultimate public consumption for domestic, commercial, industrial, and other uses. This contract is designated as Forest Oil Corporation (Operator) et al., FPC Gas Rate Schedule No. 1 in the files of the Commission. Applicant, on November 4, 1954, made a "rate filing," designated in the files of the Commission as Supplement No. 1 to said FPC Gas Rate Schedule No. 1. By this supplement Applicant proposes to increase the base charge for the sale of natural gas to Transco from 9.797150 cents per Mcf to 16 cents per Mcf measured at a pressure base of 15.025 p. s. i. a. in accordance with a provision in the contract providing for a periodic increase in price on November 1, 1954. Applicant requested that the proposed increased rates and charges be allowed to become effective as of the date of filing.

Several parties, mainly distributing company customers of Transco, and the Public Service Commission of the State of New York, were permitted to intervene. By various orders and notices these matters were set for hearing, continued, and finally were heard in Washington, D. C. At the close of Applicant's case-in-chief, counsel for the staff of the Commission made the motion to dismiss which we are asked to consider, the interveners present joining in the motion. The presiding examiner refused to certify the motion to the Commission and it is before the Commission only on appeal.

We are this day postponing action on similar motions to dismiss similar applications by Union Oil Company of California et al., Docket Nos. G-4331, G-4332, G-4334, and G-4505 and Sun Oil Company et al., Docket Nos. G-8288, G-4335, G-6279, and G-8488. For the reasons there given, we do not call up the instant motion and consider dismissal of this application forthwith, for obviously the same reasoning will be applied in this case as in the two mentioned, if the facts warrant.

Accordingly, we will not entertain the motion to dismiss at this time but the presiding examiner should proceed with the hearing as hereinafter provided and consider those matters referred to in our orders in the Sun Oil and Union Oil cases previously mentioned.

The Commission orders: Consideration of the pending motion to dismiss in the above proceeding is hereby refused and the examiner is instructed to reconvene the hearing on November 28, 1955, without further postponement of Applicant's case-in-chief and for further proceedings in conformity with this order.

Adopted: October 21, 1955.

Issued: October 24, 1955.

By the Commission.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8872; Filed, Nov. 2, 1955;
8:49 a. m.]

[Docket No. G-8288. Etc.]

SUN OIL CO. ET AL.

ORDER POSTPONING ACTION ON MOTION TO DISMISS AND REFERRING PROCEEDINGS TO EXAMINER

In the matters of Sun Oil Company, Docket No. G-8288; E. J. Hudson et al., Docket No. G-4335; Maracaibo Oil Exploration Corporation, Docket No. G-6279; Sohio Petroleum Company, Docket No. G-8488.

These matters are before the Commission upon the presiding examiner's certification of the motion made upon the record by counsel for the staff of the Commission on September 16, 1955, to dismiss the applications filed under the Natural Gas Act by the above-designated applicants for proposed increases in rates. The motion to dismiss was joined in by all party-interveners present. (T. 749, 750, et seq.)

In brief, the motion, which was made at the close of complete cases-in-chief of the four applicants, requests that the Commission dismiss the applications on the ground that the applicants have not discharged the burden of proof imposed by section 4 (e) of the act to show that the proposed rates are just and reasonable. Section 4 (e) expressly provides:

At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the natural-gas company * * *.

Sun Oil Company (Sun), on December 29, 1954, tendered for filing proposed changes in its then effective rate schedules for sales of natural gas produced from the Egan Field, Louisiana, to Transcontinental Gas Pipe Line Corporation (Transco), subject to the jurisdiction of the Commission. The proposed changes, which constituted increased rates and charges, are contained in Supplement No. 17 and Supplement No. 1 to Supplement No. 17 to Sun's FPC Gas Rate Schedule No. 44. By order issued January 28, 1955, in Docket No. G-8288, the Commission suspended such proposed changes in rates and deferred their use until March 1, 1955, or for such further time until they might be made effective in the manner prescribed by the Natural Gas Act.

Prior thereto, the Commission, by orders issued October 29 and December 20, 1954, in Docket Nos. G-4335 and G-6279, suspended changes in rates tendered for filing by E. J. Hudson et al. (Hudson) on September 19, 1954, and by Maracaibo Oil Exploration Corporation (Maracaibo) on November 19, 1954, respectively. The Commission deferred the use of Hudson's Supplement No. 7 to its FPC Gas Rate Schedule No. 3 for a period of five months beyond the effective date requested of November 1, 1954.¹ Also, the Commission deferred the use of Maracaibo's Supplement No. 13 to its FPC Gas Rate Schedule No. 1 until February 1, 1955. The changes in rates and charges proposed by Hudson and Maracaibo involved the sales of natural gas produced from the Egan Field to Transco.

¹ This was later modified to shorten the suspension period to three months.

By order issued February 18, 1955, in Docket No. G-8488, the Commission suspended changes in rates proposed by Sohio Petroleum Company (Sohio) and which were contained in Sohio's Supplement No. 18 and Supplement No. 1 to Supplement No. 18 of its FPC Gas Rate Schedule No. 26 filed on January 20, 1955. The Commission deferred the use of these proposed changes until March 20, 1955. The changes involve the sales of natural gas produced from the Egan Field to Transco. The Commission has previously found each of these applicants to be a natural gas company subject to the Act and the particular rates here involved are for sales in interstate commerce for resale.

All the proposed changes in rates contained in the above-designated rate schedules and supplements thereto are currently being charged and collected either under bond or undertaking to assure refund of excess charges found by the Commission to be not justified.

Several parties, mainly distributing company customers of Transco, and the Public Service Commission of the State of New York, were permitted to intervene. By various orders and notices these matters were set for hearing, continued, consolidated, and, finally were heard in Washington, D. C., commencing on September 12, 1955. At the hearing, Sun and Sohio presented cases-in-chief in support of the rate increase, Sun being the operator under the basic contract of April 30, 1948, with Transco. During the course of the hearing, the other applicants adopted the presentations made by Sun and Sohio (T. 738). Each of the interveners and counsel for the Staff of the Commission actively participated in the hearing. At the close of the cases-in-chief, the instant motion to dismiss now pending before the Commission was made.

Preliminarily, it may be noted that while these matters involve rate increases sought by four applicants, each of them is a party to the April 30, 1948, contract with Transco (Item B). Under that contract which was for a term of twenty years from October 1, 1950, or the date of first delivery, whichever should occur first (Item B, p. 17), Transco agreed, subject to the provisions of the contract, to take, and the applicants agreed to deliver, 25,000 Mcf of natural gas per day produced from seller's acreage in the Egan Field (Item B, p. 3) at a price for the first five-year period of 8½ cents per Mcf (Item B, p. 17). The contract also provided 1 cent per Mcf step increases during each of the next two five-year periods, and included a method for determining the price for the final five-year period (Item B, pp. 17-18). The point of delivery of the gas was described as being at the outlet or tail gate of a processing plant located in the Egan Field. The April 30, 1948, contract also contains a two-party favored-nation clause under which Transco agreed that if it purchases natural gas from any other seller at more favorable terms it would increase the contract price by the difference between

the more favorable price and the contract price.

From time to time the basic contract was amended to provide for minor changes in price, for an increase in the quantity of gas to 31,700 Mcf per day, for a change in the commencement date of the 20-year term, and for other changes (Item B, Supplement No. 7). First deliveries under the contract commenced on December 27, 1950 (Item B, Supplement No. 9). The first operation of the favored-nation clause occurred in 1952, and became effective July 1, 1952. It appears from Item B, Supplement No. 15, that Transco advised applicants by letter dated October 13, 1952, that effective as of July 1, 1952, the price for dehydrated gas purchased by it from Union Oil Company of California and Louisiana Land and Exploration Company in Vermillion Parish, Louisiana, was increased to 8.797150 cents per Mcf at a pressure base of 15.025 p. s. i. a. Transco then stated that pursuant to the basic contract it proposed to pay applicants here the same price effective July 1, 1952, for gas purchased from applicants in Egan Field as long as Transco pays 8.797150 cents per Mcf to Union Oil et al. This was the price being paid by Transco to applicants immediately prior to the rate increases here in issue.

In filing the proposed changes in rates here involved, each of the applicants merely adverted to the fact that the base gas sales contract contained a favored-nation clause which had become operative by virtue of the fact that Transco had commenced the purchase of gas from other sellers in the contract pricing area at a price more favorable to such other sellers than provided in the base contract to applicants (e. g., Item B, Supplement No. 17). The Sun and Sohio changes were triggered by the purchase of gas by Transco from the Hassie Hunt Trust at a price of 16 cents per Mcf at a contract pressure base of 15.025 p. s. i. a. plus 1 cent per Mcf for tax reimbursement. On the other hand, the changes of Hudson and Maracaibo were said to be triggered by a purchase of gas by Transco from Union Oil Company of California et al. (e. g., Item I, Supplement No. 13), which rate is under suspension. The net effect of the operation of the favored-nation clause was to increase the price of gas to Transco from 9.797150 cents per Mcf (8.797150 cents per Mcf plus 1 cent per Mcf tax reimbursement) to 17 cents per Mcf (16 cents per Mcf plus 1 cent per Mcf tax reimbursement), and the applicants seek approval of the 17-cent rate.

As noted previously, the Commission suspended the increased rates saying, after an analysis of the allegations made in support thereof, that the "increased rates and charges proposed in the aforesaid filings have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful."

At the hearing, applicants did no more than to attempt to demonstrate that the base contract with Transco had been negotiated in good faith and at arm's length; that it contained the favored-nation clause referred to above; that the

clause had become operative by virtue of acts of Transco itself; that the increased rates and charges were no more or were less than prices paid by Transco and others to other producers in the pricing area; and that the increased rates and charges did not exceed the present fair value or market value of gas in the pricing area (e. g. T. 37, 52-53).

The motion to dismiss the applications for increased rates and to terminate the proceedings raises the direct question of whether the applicants have sustained the burden of proof imposed upon them by section 4 (e) of the act and have shown by proper evidences that the proposed increases in rates and charges are just and reasonable.

Our examination of the evidence thus far presented indicates that it would support findings that the April 30, 1948, contract with Transco was entered into after arm's-length bargaining, and that other producers in the same area are receiving 17 cents or more per Mcf.

It may be observed that in providing for Commission responsibility in connection with rate filings the Natural Gas Act makes no distinction between independent producers and interstate pipeline companies. If they are subject to the act, the same criteria and procedures are prescribed for rate-fixing purposes, since both classes are natural gas companies under the act. The Commission is free, within the ambit of its statutory authority in rate fixing, to make the pragmatic adjustments which may be called for by particular circumstances (F. P. C. v. Natural Gas Pipeline Co., 315 U. S. 575, 586). While it is true that the source of our authority over rates of independent producers is contained in sections (4) and (5) of the Natural Gas Act, we do not say that in fixing the rates of natural gas companies which are independent producers we are compelled to apply the same formula as that applied in fixing the rates of natural gas companies which are interstate pipeline companies.

In dealing with the rates of interstate pipeline companies, we have pointed to the burden placed by section 4 (e) of the act upon those natural gas companies seeking approval for rate increases and in appropriate cases have pointed to the failure of some companies to present evidence which would justify the increases, for which reason we have denied applications for approval, and in these actions we have judicial approval. (Mississippi River Fuel Corp. v. F. P. C., 121 F. 2d 159, 165 (C. A. 8, 1941).) The independent producers which are applicants herein are under the same burden as interstate pipeline companies to justify any proposed rate increases, even if their operations may differ.

Upon consideration of all of these matters and the evidence so far presented, we would be required to grant the motion to dismiss and to terminate these proceedings, for the evidence does not show that the requested increased rates would be just and reasonable. Nevertheless, solely because this is the first series of cases involving the rates of in-

dependent producers upon which we have acted, we will allow Applicants a further period of time beyond which we do not propose to extend the resumption of the hearing, rather than granting the motion to dismiss forthwith. If when the hearing is resumed the Applicants avail themselves of the opportunity to present more substantial evidence that their proposed increases are just and reasonable, the evidence should be considered.

Since we are not acquainted with the facts upon which the Applicants rely to justify the increases, further than as shown by this record, we do not suggest what additional evidence should be offered. Obviously, the Applicants should be permitted to present any relevant and proper evidence which would tend to support their applications. At the same time, we must point out that rather extended opportunity to prepare relevant and proper evidence bearing upon the lawfulness of rates and charges has been afforded all independent producers whose rates are subject to the Natural Gas Act. Last November, in Docket No. R-142, we requested suggestions from the natural-gas industry and any other interested groups as to the formula or principles to be followed in fixing rates of independent producers who are natural-gas companies under the act. Many briefs and proposals were filed by producers, pipeline companies, distribution companies, State commissions, industry organizations, land and royalty owners' associations and others. We heard oral argument on three days last January by many of those who had submitted briefs and by our own staff, but, after considering all of the suggestions, decided to wait for specific cases to be presented with concrete facts before reaching any decision on the matter.

In addition to this general presentation, our Staff, pursuant to our instructions, held conferences last July with many of the producers, including representatives of these applicants, and discussed possible types of evidence which might show that particular rates of producers are just and reasonable. With these prior opportunities to explore this field, and with the plain obligation placed upon them by the act, the Applicants should now be fully prepared to demonstrate the lawfulness of the proposed increases or we must deny the applications and dismiss the proceedings. Reasonable consideration of the rights of the other parties and of the general public will justify no further delays.

In order properly to consider the motion to dismiss, we have had the Examiner certify the record to us for examination. It will be returned to him for further proceedings in accordance with our views as expressed herein.

The Commission orders: Action on the pending motion to dismiss is hereby postponed and the above proceedings are hereby reopened and returned to the Examiner with instructions to reconvene the hearing on November 28, 1955, without further postponement of Applicants' case-in-chief and for further

proceedings in conformity with this order.

Adopted: October 21, 1955.

Issued: October 24, 1955.

By the Commission.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-8873; Filed, Nov. 2, 1955;
8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1697]

SPERRY-RAND CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

OCTOBER 28, 1955.

In the matter of application by the Los Angeles Stock Exchange, for unlisted trading privileges in Sperry-Rand Corporation, Common Stock, 50¢ Par Value.

The above named stock exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 14, 1955, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL]

NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 55-8875; Filed, Nov. 2, 1955;
8:50 a. m.]

[File No. 7-1686]

SPERRY-RAND CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

OCTOBER 28, 1955.

In the matter of application by the Philadelphia-Baltimore Stock Exchange, for unlisted trading privileges in Sperry-Rand Corporation, Common Stock, 50¢ Par Value.

The above named stock exchange, pursuant to section 12 (f) (2) of the Securities

Exchange Act of 1934 and Rule X-12F-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 14, 1955, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL]

NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 55-8876; Filed, Nov. 2, 1955;
8:50 a. m.]

[File No. 7-1684]

SPERRY-RAND CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

OCTOBER 28, 1955.

In the matter of application by the San Francisco Stock Exchange, for unlisted trading privileges in Sperry-Rand Corporation, Common Stock, 50¢ Par Value.

The above named stock exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 14, 1955, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL]

NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 55-8877; Filed, Nov. 2, 1955;
8:50 a. m.]

[File No. 7-1681]

SPERRY-RAND CORP.

NOTICE OF APPLICATION FOR UNLISTED
TRADING PRIVILEGES, AND OF OPPORTUNITY
FOR HEARING

OCTOBER 28, 1955.

In the matter of application by the Midwest Stock Exchange, for unlisted trading privileges in Sperry-Rand Corporation, Common Stock, 50¢ Par Value.

The above named stock exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 14, 1955, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.[F. R. Doc. 55-8878; Filed, Nov. 2, 1955;
8:50 a. m.]

[File No. 7-1679]

SPERRY-RAND CORP.

NOTICE OF APPLICATION FOR UNLISTED
TRADING PRIVILEGES, AND OF OPPORTU-
NITY FOR HEARING

OCTOBER 28, 1955.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Sperry-Rand Corporation, Common Stock, 50¢ Par Value.

The above named stock exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before November 14, 1955, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of

the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.[F. R. Doc. 55-8879; Filed, Nov. 2, 1955;
8:50 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUGUSTA BEATRICE BRUGGEMANN

NOTICE OF INTENTION TO RETURN VESTED
PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Augusta Beatrice Bruggemann, Bremerhaven, Germany, Claim No. 44857, Vesting Order No. 1108; \$4,290.49 in the Treasury of the United States.

One assignment, dated July 7, 1947, by White & Company, Assignor, to the Treasurer of the United States, assigning a 10% share of its right, title, and interest in Certificate Nos. 2-JN-4, 5, 6, 7, each in the original amount of \$1,000.00 of Prudence-Bonds Corporation 5½% Series No. 440, which matured October 1, 1932, and to any claims arising thereunder, which assignment is now in the custody of the Office of Alien Property, Washington, D. C.; and all right, title, interest and claim of any kind or character whatsoever of Augusta Beatrice Bruggemann, acquired by the Attorney General as successor to the Alien Property Custodian pursuant to Vesting Order No. 1108, in and to the foregoing assignment.

Executed at Washington, D. C., on October 24, 1955.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.[F. R. Doc. 55-8885; Filed, Nov. 2, 1955;
8:52 a. m.]

YOICHI ABESHIMA

NOTICE OF INTENTION TO RETURN VESTED
PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after

adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Yoichi Abeshima, 505 MIS. PLT., APO 7, % Postmaster, San Francisco, California, Claim No. 63855, Vesting Order No. 3361; \$1,577.28 in the Treasury of the United States.

Executed at Washington, D. C., on October 24, 1955.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.[F. R. Doc. 55-8886; Filed, Nov. 2, 1955;
8:52 a. m.]UNITED STATES TARIFF
COMMISSION

[Investigation 6]

MONTAN WAX IN ITS CRUDE FORM

INVESTIGATION INSTITUTED

On October 28, 1955, the Tariff Commission received advice from the Treasury Department that Montan wax in its crude form from the Soviet Zone of Germany and from Czechoslovakia is being, or is likely to be, sold in the United States at less than its fair value. Accordingly, the Tariff Commission has instituted an investigation under section 201 (a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

As of this time, the Commission has not ordered a public hearing in this investigation. In accordance with § 208.4 of the Commission's Rules of Practice and Procedure (19 CFR, 1954 Supp., 208.4) any interested party who believes that a public hearing should be held in this investigation may within 15 days after the date of publication in the FEDERAL REGISTER of this notice of investigation, submit a request in writing to the Secretary, United States Tariff Commission, Washington 25, D. C., that a public hearing be held, stating the reasons for such request.

Any interested party may submit to the Commission a written statement of information pertinent to the subject matter of this investigation. If a public hearing is held in this investigation such statement may be presented in lieu of appearance at such hearing. Fifteen clear copies of such statement should be submitted, and information which is desired to be submitted in confidence should be on separate pages clearly marked "Submitted in confidence".

By order of the United States Tariff Commission this 31st day of October 1955.

Issued: October 31, 1955.

[SEAL] DONN N. BENT,
Secretary.[F. R. Doc. 55-8890; Filed, Nov. 2, 1955;
8:53 a. m.]